

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE DISTRICT OF NEW MEXICO

3 UNITED STATES OF AMERICA,

4 Plaintiff,

5 vs. NO: CR-15-4268 JB

6 ANGEL DELEON, et al.,

7 Defendants.

8 VOLUME 13

9 Transcript of Jury Trial before The Honorable
10 James O. Browning, United States District Judge, Las
11 Cruces, Dona Ana County, New Mexico, commencing on
12 February 14, 2018.

13 For the Plaintiff: Ms. Maria Armijo, Mr. Randy
14 Castellano, Mr Matthew Beck

15 For the Trial 1 Defendants: Ms. Amy Jacks, Mr.
16 Richard Jewkes, Ms. Theresa Duncan, Mr. Marc Lowry,
17 Ms. Carey Bhalla, Mr. Bill Maynard, Mr. Ryan Villa,
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1 THE COURT: All right, we'll go on the
2 record. Is there anything we need to discuss before
3 we bring the jury in? Anything I can do for you,
4 Mr. Castellano? Mr. Beck?

5 MR. BECK: Your Honor, there is a sealed
6 complaint, and I don't have the case number in front
7 of me, I think it's being brought over here. There
8 is a sealed complaint that was filed in Federal
9 Court charging Julian Romero, I believe with
10 possession of intent -- oh, a dry drug conspiracy --
11 conspiracy for possession with intent to distribute.
12 It was dismissed, an order was filed. It's all
13 sealed.

14 We're asking the Court to orally unseal
15 the case so we can produce that to the defense right
16 now before Mr. Romero takes the stand later today.

17 THE COURT: Any objection to that?

18 MS. DUNCAN: No, Your Honor.

19 MR. VILLA: No, Your Honor.

20 MS. BHALLA: Your Honor, the only other
21 thing that might be an issue is I believe the
22 Government intends to put Mr. Archuleta on today,
23 and there are some still outstanding issues with
24 that, Your Honor.

25 THE COURT: All right. Let me get this

1 taken care of with the complaint on Romero. Any
2 objection, Ms. Bhalla, on unsealing it?

3 MS. BHALLA: No, Your Honor, thank you.

4 THE COURT: Ms. Jacks? Mr. Jewkes? All
5 right. So I'll give an oral order to unseal the
6 complaint. Is that it, just the complaint?

7 MR. BECK: The complaint, the motion to
8 dismiss, and the order.

9 THE COURT: All right. Those are granted.
10 All right, Ms. Bhalla, what are the issues
11 with Mr. Archuleta?

12 MS. BHALLA: It's what I filed the trial
13 brief about, Your Honor, about the scope of
14 cross-examination depending on what he says, Your
15 Honor.

16 THE COURT: Well, I'm not -- you know, it
17 was mostly describing things. But I did not -- I'll
18 take a second look at it today, but when I went over
19 it before, within a day or two when you gave it to
20 me, I did not see anything that you were impeaching
21 him on. I didn't see statements that he had made
22 that would be impeachment. So at the present time
23 I'm inclined to deny the requests that are in that
24 motion.

25 MS. BHALLA: I understand, Your Honor, and

1 I think part of it depends on Mr. Archuleta's
2 testimony.

3 THE COURT: Okay.

4 MS. BHALLA: So I'll just ask the Court
5 that we be ready to take that up at that time.

6 THE COURT: All right.

7 MS. BHALLA: Thank you.

8 THE COURT: Okay. I'll try to refresh my
9 memory on that. But I did look at it within a day
10 or two of when it came, when you filed it, and I
11 didn't see anything in there that would cause me to
12 find that you could impeach certainly your client
13 through what Mr. Archuleta was going to say.

14 MR. BECK: And that was the United States'
15 position in response to that trial brief. I think
16 the Court asked for specific statements that would
17 be impeached by Mr. Archuleta's testimony -- or
18 impeached by statements to Mr. Archuleta. And the
19 United States didn't see anything in that brief that
20 it believed were proper impeachment. So the United
21 States' position is the same as the Court's.

22 MS. BHALLA: And, Your Honor, just to
23 refresh your memory a little further, the Government
24 made allegations that my client confessed or
25 admitted that he had ordered this hit. I believe

1 back in 2016 we asked for portions of the transcript
2 where that admission was contained.

3 We've never seen an admission on behalf of
4 our client, but we believe, based on the
5 Government's representation, that that's the basis
6 of Mr. Archuleta's testimony. So in the event he
7 does testify to that fact, those statements that I
8 brought out in the trial brief directly impeach that
9 assertion.

10 But I would agree with the Court that I
11 did not find that assertion necessarily in the
12 transcript. So I think that's what I'm trying to
13 alert the Court to, that should that come up, it
14 becomes an issue, Your Honor.

15 THE COURT: I'll have to find your brief.
16 But there were two places I remember underlining it.
17 One was on the very first page, almost on the first
18 line, and later on you sort of repeated the same
19 thought.

20 Let me see if I can just sort of do the
21 argument from memory. But I think you were saying
22 that the Court would not allow impeachment of a
23 witness that might be -- is that my copy?

24 So here's the statement: "The Court has
25 ruled that Defendant Herrera is not entitled to

1 impeach witnesses who testify about statements
2 Defendant Herrera made with other contradictory
3 statements made by Defendant Herrera."

4 And then you make a similar statement --
5 well, I must have not underlined it later. But I
6 think we need to be careful what I rule. I
7 certainly haven't said that you can't impeach
8 witnesses who testify about Herrera.

9 MS. BHALLA: Okay.

10 THE COURT: I think that's fair game --

11 MS. BHALLA: Okay.

12 THE COURT: -- you know, so when somebody
13 comes in and makes a statement, they can be
14 impeached just like any other witness.

15 MS. BHALLA: Right.

16 THE COURT: What I think we have to be
17 careful with, and I haven't seen that can you do it
18 yet, is you can't get -- use contradictory
19 statements of Herrera to impeach Herrera. It's sort
20 of -- you remember this all came about --

21 MS. BHALLA: Yes.

22 THE COURT: -- because you were --

23 MS. BHALLA: Yes. Yes.

24 THE COURT: -- joining Mr. Perez' --

25 MS. BHALLA: Yes.

1 THE COURT: -- with Mr. Herrera's.

2 MS. BHALLA: Yes.

3 THE COURT: And there you have to be
4 careful. You can do it. I don't think it's an 806
5 issue --

6 MS. BHALLA: Right.

7 THE COURT: -- I think I've explained that
8 in a prior opinion, that it's not an 806 issue. But
9 you can impeach, but you've got to have a prior
10 inconsistent statement --

11 MS. BHALLA: Right.

12 THE COURT: -- of Herrera.

13 MS. BHALLA: Right.

14 THE COURT: So you're impeaching your own
15 client --

16 MS. BHALLA: Right.

17 THE COURT: -- but you've got to set it
18 up.

19 MS. BHALLA: Right. And I don't --

20 THE COURT: I just didn't want you to
21 think that when Mr. Archuleta comes in, you can't
22 impeach him. You can go after him.

23 MS. BHALLA: Okay. And that was my point
24 with the trial brief. And I agree with the Court
25 right now, too. It depends on what Mr. Archuleta

1 says. I don't know, so --

2 THE COURT: Okay. Just so we're clear.

3 I'm not saying you can't impeach Mr. Archuleta.

4 Where I think I'm shutting you down right at the

5 moment is impeaching Mr. Herrera through Mr.

6 Archuleta. That's where I haven't seen the prior

7 inconsistent --

8 MS. BHALLA: Yeah, and I don't -- I think

9 the plan is more to impeach Mr. Archuleta, should he

10 make the assertion that my client confessed to him.

11 That's the issue.

12 THE COURT: I think that's fair game.

13 MS. BHALLA: Thank you, Your Honor.

14 THE COURT: I assume you agree with that,

15 Mr. Beck?

16 MR. BECK: Yes, Your Honor.

17 THE COURT: All right. Anything else from

18 the defendants? Anything else we need to discuss?

19 Anything else I can do for you?

20 MR. VILLA: Your Honor --

21 THE COURT: Mr. Villa?

22 MR. VILLA: I don't know when the

23 Government intends to call Mr. Cordova. I know

24 we've submitted our positions on the redactions, but

25 I guess I would just ask for maybe the night before,

1 so we know what's coming in and we can prepare.

2 THE COURT: It might be good if you'd keep
3 me in that loop so that -- there is so much -- you
4 know, there is hundreds of pages. So the better you
5 can help me, the better I can help y'all and serve
6 y'all, and not getting -- not letting you slow me
7 down. Not letting me slow you down.

8 MS. ARMIJO: And, Your Honor, I believe
9 he'll be called next week. But it could be early
10 next week, but I'll let everybody -- I'll give
11 everybody a heads up.

12 THE COURT: Okay. If you can maybe
13 include me in the loop as to who you're calling, it
14 will just help me. So just tell Ms. Standridge at
15 the end -- y'all are doing this at the end of the
16 day?

17 MS. ARMIJO: Yes. Sometime in the
18 afternoon, and the end of the day, depending where
19 I'm at.

20 THE COURT: If you'll step over, Ms.
21 Standridge, and if you'll just write the names down
22 and kind of help me so I can be working on the right
23 things.

24 MR. BECK: And I'm handing copies out of
25 sealed case, 16-MJ-02307-KBM.

1 THE COURT: This is Mr. Romero?

2 MR. BECK: Yes, Your Honor.

3 THE COURT: All right.

4 All rise.

5 (The jury entered the courtroom.)

6 THE COURT: All right. Everyone be
7 seated.

8 Happy Valentine's Day, everyone. I hope
9 for you that have spouses or significant others,
10 you'll be able to spend time with them or talk to
11 them or something today.

12 My wife had planned to stay with me in Las
13 Cruces through Valentine's Day, and then I lose her
14 this weekend, so she's had enough fun. So she's
15 going to head back to Dallas and see grandkids. But
16 I hope y'all get to spend a little bit of time with
17 your significant others, as well.

18 I gave some Valentine gifts to my staff,
19 and then the defense lawyers wanted them too, so I
20 cut it off with staff. But I appreciate the spirit.

21 And I appreciate everybody doing
22 everything we've asked them to do, be here on time
23 and ready to go. It's made it much efficient the
24 way y'all have gone about your task.

25 All right. Mr. Vigil, I'll remind you

1 that you're still under oath.

2 Ms. Armijo, if you wish to continue your
3 direct examination of Mr. Vigil, you may do so at
4 this time.

5 MS. ARMIJO: Thank you, Your Honor.

6 THE COURT: Ms. Armijo?

7 JACK VIGIL,
8 after having been previously duly sworn under
9 oath, was questioned, and continued testifying
10 as follows:

11 CONTINUED DIRECT EXAMINATION

12 BY MS. ARMIJO:

13 Q. Mr. Vigil, I know you mentioned -- we
14 talked a little bit about Julian Romero and his age.
15 What about Conrad Villegas? Can you describe him to
16 the jury?

17 A. At the time he had -- when I went in
18 there, I saw him, and he was shirtless, and he was
19 wearing what to me appeared boxers or shorts, I'm
20 not too sure, but he was in his white sneakers -- or
21 shoes, and he had long, black hair.

22 Q. Okay. And approximately what age is he?
23 Or if you can describe, is he -- was he younger than
24 Julian Romero?

25 A. He's younger than Julian Romero.

1 Q. And is he someone who appears to be fit?

2 A. Yes.

3 Q. And when you say "younger," can you even
4 guess -- is it just a few years, or is he a young
5 man in comparison to Julian Romero?

6 A. He's a young man compared to Julian
7 Romero.

8 Q. All right. And I'm going to show you in a
9 moment Exhibit 268.

10 MS. ARMIJO: Your Honor, I move for the
11 admission of Exhibit 268, I believe without
12 opposition.

13 THE COURT: Any objection from the
14 defendants? Not hearing any, Government's Exhibit
15 268 will be admitted into evidence.

16 (Government Exhibit 268 admitted.)

17 Q. All right. Mr. Vigil -- and on the
18 screen, if you can look -- are you familiar with the
19 items depicted in the picture?

20 A. Correct.

21 Q. Okay. And what are they?

22 A. White sneakers.

23 Q. And who do those sneakers belong to?

24 A. Conrad.

25 Q. Villegas?

1 A. Yes.

2 Q. And is this how they appeared after the
3 attack on Julian Romero?

4 A. Correct.

5 MS. ARMIJO: I have no further questions.
6 Thank you.

7 THE COURT: Thank you, Ms. Armijo.

8 Any cross-examination of Mr. Vigil?

9 MS. BHALLA: No, Your Honor.

10 THE COURT: Anybody?

11 MR. LOWRY: No, Your Honor.

12 THE COURT: Mr. Lowry? Ms. Fox-Young?

13 MS. FOX-YOUNG: No, Your Honor.

14 MS. JACKS: No, Your Honor.

15 THE COURT: All right. Mr. Vigil, you may
16 step down.

17 Is there any reason that Mr. Vigil cannot
18 be excused from the proceedings?

19 MS. ARMIJO: No, Your Honor, thank you.

20 THE COURT: Can the defendants agree to
21 excuse him?

22 MS. FOX-YOUNG: Yes, Your Honor.

23 THE COURT: Not hearing any objection,
24 you're excused from the proceedings. Thank you for
25 your testimony.

1 All right. Does the Government have its
2 next witness or evidence?

3 MR. BECK: Yes, Your Honor. The United
4 States calls Julian Romero.

5 THE COURT: Mr. Romero, if you'll come up
6 and stand next to the witness box on my right, your
7 left, before you're seated, my courtroom deputy, Ms.
8 Standridge, will swear you in.

9 JULIAN R. ROMERO,
10 after having been first duly sworn under oath,
11 was questioned, and testified as follows:

12 THE CLERK: Please be seated. State and
13 spell your name for the record.

14 THE WITNESS: Julian R. Romero,
15 J-U-L-I-A-N, Romero, R-O-M-E-R-O.

16 THE COURT: Mr. Romero. Mr. Beck.

17 DIRECT EXAMINATION

18 BY MR. BECK:

19 Q. Good morning, Mr. Romero.

20 A. Good morning.

21 Q. Are you now or have you been a member of
22 the Sindicato de Nuevo Mexico?

23 A. Yes.

24 Q. Who brought you in? And just get a little
25 closer to the microphone, please. Who brought you

1 into the SNM prison gang?

2 A. Juan Baca.

3 Q. And was that in 1981?

4 A. It was '81, '82. I can't really recall
5 too much of that, but around '81, '82.

6 Q. And how did you know Juan Baca before that
7 time?

8 A. He was an old-timer from my barrio,
9 Barelas, in Albuquerque, and I just met him there at
10 the county jail. I didn't know him before that.

11 Q. When you say "barrio," does that mean your
12 street gang?

13 A. It means the place I was raised.

14 Q. Were you a member of the Barelas Street
15 Gang before you became an SNM member?

16 A. Yes, I was.

17 Q. How did Mr. Baca tell you to join the SNM?

18 A. Well, it happened -- I guess he had seen
19 me running around the pod and stuff, and he seen how
20 I got along with all the rest of the inmates and
21 that stuff. And to me, I think he seen me as a
22 person that had, you know, a little charisma, maybe,
23 talked to the other guys and got along with
24 everybody. And he called me to his cell and he
25 introduced himself, I introduced myself, and we did

1 a little bit of heroin. And this was after the
2 penitentiary riot, and he told me he wanted to start
3 a gang in New Mexico, at the Santa Fe prison.

4 Q. And what did he tell you about starting
5 that gang at the Santa Fe prison?

6 A. Well, he gave me some of the bylaws. He
7 gave me, like, it would take somebody that had been
8 in the penitentiary, like, three years, didn't have
9 any prior, being an informant, the cream of the
10 crop, you know, of the people, of the inmates that
11 were there.

12 Q. And what do you mean by "cream of the
13 crop"?

14 A. Well, the -- more or less the good guys,
15 you know, the guys that had potential to be leaders
16 and, you know, to get things together, you know.

17 Q. You mean some of the strongest prisoners
18 at the Penitentiary of New Mexico?

19 MS. DUNCAN: Your Honor, I'm going to
20 object.

21 THE COURT: What's the objection?

22 MS. DUNCAN: Leading.

23 THE COURT: Overruled.

24 BY MR. BECK:

25 Q. I said, did you mean some of the strongest

1 prisoners at the Penitentiary of New Mexico?

2 A. Some of the smartest, maybe.

3 Q. And what did you -- and so you met Mr.
4 Baca at the county jail. What happened after the
5 county jail?

6 A. Well, after the county jail -- well,
7 during the county jail, he gave me the bylaws, and
8 he told me get together with a few people from Santa
9 Fe. It was going to take a little bit of violence
10 because we had to get rid of another gang that had
11 been -- prior to this, there was Nuestra Familia.
12 They were called the Nuestra Familia, and there was
13 a few stragglers there. And he said that it was
14 going to take a little bit of violence, so get
15 together with a few guys that he named. And so I
16 went up there and --

17 Q. Hold on one second. Did he know that you
18 were being sent from the county jail to the
19 Penitentiary of New Mexico very soon?

20 A. Yes. I had got eight years.

21 Q. And what happened, then, after this
22 conversation with Mr. Baca about taking out the
23 Nuestra Familia with violence? What happened when
24 you got up to the Penitentiary of New Mexico?

25 A. I met with the people that he told me to

1 meet with.

2 Q. And who were those people?

3 A. One was Henry Clark, Tomas Clark, Tomas
4 Campos. I think he's deceased. Steve Baca, Pollo;
5 he's deceased. And Animal, Steve Martinez; he's
6 deceased.

7 And he told me to get together with these
8 guys and to start -- to give them the bylaws that he
9 ran down to me about trying to get some people
10 together, the smartest ones, maybe a little bit
11 strong, too, you know. And he told me it was going
12 to take a little bit of violence because we had to
13 get rid of the Nuestra Familia. So I got together
14 with those people up there, and I ran it down to
15 them, and they all agreed to it, and that's how the
16 SNM formed.

17 Q. So after this conversation with Mr. Baca,
18 when you go up to the Penitentiary of New Mexico and
19 get together with these other seven inmates that you
20 named, was that the beginning, including you, of the
21 first eight SNM members?

22 A. That was the beginning.

23 Q. And approximately what time period was
24 this? What year?

25 A. This was in '82.

1 Q. Now, Mr. Romero, I'm going to show you a
2 couple photos here. Give me one second.

3 MR. BECK: Your Honor, may I approach the
4 witness with what's been previously marked for
5 identification purposes as Government's Exhibits
6 494, 670, 671, and 672?

7 THE COURT: You may.

8 MR. BECK: Your Honor, the United States
9 moves for the admission of Government's Exhibits
10 494, 670, 671, and 672.

11 THE COURT: Any objection?

12 MS. DUNCAN: No, Your Honor.

13 THE COURT: Not hearing any objection,
14 Government's Exhibits 494, 670, 671, and 672 will be
15 admitted into evidence.

16 (Government Exhibits 494, 670, 671, and
17 672 admitted.)

18 MR. BECK: Your Honor, may I publish to
19 the jury beginning with Government's Exhibit 670?

20 THE COURT: You may.

21 BY MR. BECK:

22 Q. Mr. Romero, what's depicted in the
23 photograph in front of you on the screen?

24 A. My mug shot.

25 Q. And in what year was that mug shot taken?

1 A. It doesn't say there, but I figure it was
2 around '82, '81, around there.

3 Q. I'm going to circle the bottom right on
4 that.

5 A. 1980, yeah.

6 MS. DUNCAN: I'm so sorry to interrupt,
7 but our screen has just gone down.

8 THE COURT: What has gone down?

9 MS. DUNCAN: Our monitor has gone down.
10 Thank you.

11 BY MR. BECK:

12 Q. Mr. Romero, I'm now going to show you
13 what's been admitted as Government's Exhibit 671.
14 What is that a photograph of?

15 A. That's also me.

16 Q. What year was this mug shot taken of you?

17 A. 1990. 1990.

18 Q. And I'm going to show you Government's
19 Exhibit 672. What is this a photograph of?

20 A. That's me.

21 Q. And in what year was this photograph
22 taken?

23 A. I don't know, but I think it was about
24 1990, around there. I can't read the sign right
25 there.

1 Q. Does it say 2010 on the bottom right of
2 that?

3 A. Yes, 2010. That's it, about.

4 Q. Were you incarcerated in the New Mexico
5 Department of Corrections in 2010?

6 A. In 2010, yes, I was.

7 Q. And I'm going to show you what's been
8 admitted as Government's Exhibit 494. What is this
9 a photograph of?

10 A. It a photograph of me with the other
11 members of the SNM.

12 Q. All right. And where are you in that
13 photograph?

14 A. I'm the one in the middle, sitting down.

15 Q. I just circled the person sitting down.
16 Is that you?

17 A. Yes, that's me.

18 Q. Was this photograph taken inside a prison
19 facility?

20 A. Yes, it was. Excuse me. Could you go
21 back to that?

22 Q. Sure.

23 MR. BECK: Can you put it back up?

24 A. That isn't in New Mexico, I don't think.

25 Q. That is not in New Mexico?

1 A. No.

2 Q. Were you incarcerated outside of New
3 Mexico?

4 A. Yes, I was. I was in Oregon State Prison
5 for a while.

6 Q. Is that where that is?

7 A. I can't recall where that was at. It just
8 doesn't look like New Mexico to me, and the
9 clothes -- we never wore clothes like that in New
10 Mexico.

11 Q. Okay. But this is a photograph of you
12 inside of a prison?

13 A. That is me, yeah.

14 Q. Thank you, Mr. Romero. When was the first
15 time you went to prison?

16 A. 1977. August of 1977.

17 Q. And how old were you in August of 1977?

18 A. I was 18 years old.

19 Q. And where were you on your 21st birthday?

20 A. I was in prison at Santa Fe, New Mexico.

21 Q. And what happened at that time?

22 A. Well, at that time was the worst prison
23 riot in the history of New Mexico. It was a
24 gruesome riot.

25 Q. And were you incarcerated at the

1 Penitentiary of New Mexico, what some people refer
2 to as the Old Main, during that prison riot?

3 A. Yes, I was.

4 Q. To your knowledge -- you were one of the
5 founding members of the SNM; is that right?

6 A. Yes.

7 Q. Was the SNM around at the time of the
8 prison riot?

9 A. At that time, no, it wasn't.

10 Q. Did it come to be formed after the prison
11 riot?

12 A. It was formed after the prison riot.

13 Q. I want to talk to you about some of the
14 crimes that you've committed in relation to the SNM.
15 Did you at some point assault someone named Gilbert
16 Saavedra?

17 A. Yes, I did.

18 Q. Was that around 1982?

19 A. Yes, it was.

20 Q. What happened?

21 A. He was part of the Nuestra Familia, and he
22 was one that had to be taken out, taken out of the
23 population.

24 Q. What is the Nuestra Familia?

25 A. That's a gang in Northern California,

1 Fresno, all that.

2 Q. Were there Nuestra Familia members
3 incarcerated within the New Mexico Department of
4 Corrections?

5 A. Yes, but that was way before I got there.
6 They got that formed by a guy named -- I guess his
7 name -- I don't guess. I know his name was Richard
8 Valdez. And he started recruiting some people.

9 And could I have a glass of water, please?

10 Q. Sure, right in front of you.

11 And why did you, as an SNM member, target
12 Gilbert Saavedra, who is a Nuestra Familia member?

13 A. It was an order from Juan Baca.

14 Q. Is that the same Juan Baca who sent you up
15 to the Penitentiary of New Mexico to form the SNM
16 Prison Gang?

17 A. Yes.

18 Q. Approximately two years later, in 1984,
19 did you again do an assault for the SNM?

20 A. Yes, I did.

21 Q. Tell us about that.

22 A. His name was Steve Baca. And it came out
23 through the word and everything that he is an
24 ex-Nuestra Familia. And he jumped the fence and
25 came over to the SNM. And that's not something that

1 you're supposed to do. You're not supposed to jump
2 from one gang to another. And so Juan Baca sent the
3 word out there that he had to get hit. And he sent
4 the word to somebody else, but the guy that he sent
5 the word to just didn't want to do it. And so me
6 and a guy named Sam Guevera took it upon ourselves
7 to do it.

8 Q. And what did you do to Mr. Baca?

9 A. We walked into the cell and we stabbed
10 him.

11 Q. And why was the SNM targeting Nuestra
12 Familia gang members?

13 A. Well, Juan Baca, when he went -- after the
14 riot, he went to California. I forget the name of
15 the -- Soledad or something like that. It was in
16 California. And while he was up there, he ran into
17 a couple of people that were with the Los Carnales,
18 and Los Carnales were saying that Juan Baca was --

19 Q. Let me stop you there, and maybe I'll ask
20 a better question.

21 A. Go ahead.

22 Q. Was the SNM targeting Nuestra Familia
23 because they were a rival gang of the SNM at that
24 time?

25 A. Yes. That's why we were targeting them.

1 Q. And I don't think we -- what did you do
2 before that, in 1982, to Gilbert Saavedra?

3 A. What did I do before that to Gilbert?

4 Q. Yes. How did you perform the assault?
5 How did you assault him?

6 A. On Gilbert Saavedra?

7 Q. Yes.

8 A. Well, me, Henry Clark, and Angel Carreon
9 waited till 3:00 in the morning. And he was asleep,
10 and I tried to stick him in the neck and go to the
11 top of his head, and I missed, and I hit him here,
12 and it came out the back of his ear and missed his
13 brain, so I didn't kill him. But I tried to. And
14 Henry and Angel -- they threw their weapons and just
15 didn't do anything, you know.

16 Q. So you stabbed Gilbert Saavedra through
17 the chin and out through the ear?

18 A. Yes.

19 Q. In 1986, did you call a hit for the SNM?

20 A. In 1986, did I call a hit?

21 Q. Yes.

22 A. I didn't call a hit, but I think that's --
23 you're referring to a person named Troca?

24 Q. Yes.

25 A. He was hit before he even came out of cell

1 block 3, because he tried to assault Angel Munoz
2 while we were in cell block 3. He tried to stick
3 him with a broom stick. So he had a green light on
4 him when he came out. So that, right there, was
5 just anybody that could get him, the closest one to
6 him, you know.

7 Q. And who was Angel Munoz?

8 A. He was another SNM member.

9 Q. And in 1994, were you involved in an
10 incident with a man named Huesos?

11 A. In 19- --

12 Q. '94?

13 A. '94, with Huesos?

14 Q. Yes.

15 A. No, I don't recall that.

16 Q. All right. We'll come back to that.

17 A. Sure.

18 Q. As one of the founding SNM members, did
19 you bring in or recruit other SNM members?

20 A. Yes, I did.

21 Q. And who did you recruit or bring in?

22 A. I just recruited a couple more members.
23 It was Jesse Chavez, a guy named Javier Parra. And
24 after that, I didn't recruit anybody else.

25 Q. Did you recruit Billy Garcia?

1 A. No, I did not recruit him.

2 Q. And I think you told us a little bit about
3 this before. But what is the criteria -- what was
4 the criteria for membership in the SNM when you were
5 recruiting and bringing in members?

6 A. It was that a person had to have at least
7 three years in the penitentiary. He couldn't have
8 any prior -- you know, like, being an informant; he
9 couldn't be a person that ran from a fight. He
10 couldn't have any weakness in him. And he had to be
11 pretty smart. You know, we wanted the cream of the
12 crop. I don't know if you understand what I mean by
13 "the cream of the crop," but he had to be a pretty
14 stand-up person, you know.

15 Q. And what would happen if an SNM member
16 that you brought in did not participate in an SNM
17 hit when he was ordered to?

18 A. He would get hit.

19 Q. Is there any symbolism associated with the
20 SNM prison gang?

21 A. Could you repeat that?

22 Q. Is there any symbol associated with the
23 SNM prison gang?

24 A. Yes, there is a symbol.

25 Q. And what is that symbol?

1 A. It's the Zia symbol with an S and NM in
2 it.

3 Q. And how did that symbol come to be?

4 A. Juan Baca told me to design some kind of a
5 symbol to represent the SNM. But he said you didn't
6 have to put it on, if you didn't want to. You know,
7 you could have been a sleeper, or whatever. And I
8 just designed what I thought would be a good design,
9 you know. So me and this other guy -- I can't
10 remember his last name. He was from Texas. And his
11 first name was Tony, but I can't remember his last
12 name. And we got together and we designed it.

13 Q. So you and Tony designed the Zia with the
14 S in it, the SNM symbol?

15 A. Yes.

16 Q. All right.

17 MR. BECK: Your Honor, at this time, the
18 United States moves to admit Government's Exhibit
19 761.

20 THE COURT: Any objection?

21 MR. VILLA: No, Your Honor.

22 THE COURT: Not hearing any objection,
23 Government's Exhibit 761 will be admitted into
24 evidence.

25 (Government Exhibit 761 admitted.)

1 MR. BECK: May I publish to the jury, Your
2 Honor?

3 THE COURT: You may.

4 BY MR. BECK:

5 Q. Mr. Romero, I'm showing you Government's
6 Exhibit 761. Who are these photographs of?

7 A. Those photographs are of me.

8 Q. All right.

9 Are these your tattoos?

10 A. Yes, those are my tattoos.

11 Q. And in this photograph at the top right,
12 it looks like your right side of your abs or your
13 lower ribcage, there is a circle of a tattoo. What
14 is that tattoo?

15 A. That's just a flower.

16 Q. That's just a flower?

17 A. Yes.

18 Q. Okay. Do you have a tattoo of the Zia
19 with an SNM symbol on there?

20 A. No, I don't.

21 Q. How does the SNM interact with drugs
22 inside the prisons?

23 A. The way the SNM deals with drugs in the
24 penitentiary is, if anybody is bringing in drugs, a
25 quantity of drugs, we usually get a cut out of it.

1 And we'll buy some and put it in so they can buy
2 some more and...

3 Q. And by "We get a cut of it," do you mean
4 the SNM gets a cut of it?

5 A. Yes.

6 Q. And do you get a cut of it from SNM
7 members as well as non-SNM members?

8 A. Yes.

9 Q. And have you purchased drugs from SNM
10 members before?

11 A. Yes, I have.

12 Q. Are you a drug addict, Mr. Romero?

13 A. Right now I'm taking Suboxone.

14 Q. Before you were taking Suboxone, were you
15 a drug addict?

16 A. Yes, I was a drug addict.

17 Q. And right now, how often do you take
18 Suboxone?

19 A. Now, I take Suboxone -- I take one a day.

20 Q. Is that one strip?

21 A. One strip a day.

22 Q. And when did you start using drugs?

23 A. When did I start using drugs? When I was
24 16 years old.

25 Q. And when did you stop by going on

1 Suboxone?

2 A. About two years ago.

3 MR. BECK: Your Honor, at this time the
4 United States moves to admit Government's Exhibit
5 760.

6 THE COURT: Any objection?

7 MR. VILLA: No objection.

8 THE COURT: All right. Not hearing any
9 objection, Government's Exhibit 760 will be admitted
10 into evidence.

11 (Government Exhibit 760 admitted.)

12 MR. BECK: May I publish to the jury, Your
13 Honor?

14 THE COURT: You may.

15 BY MR. BECK:

16 Q. Mr. Romero, I'm showing you Government's
17 Exhibit 760. Do you recognize what's depicted in
18 this photograph?

19 A. What do you mean by that?

20 Q. Are you familiar with a penitentiary pack
21 or a pen pack?

22 A. Am I what?

23 Q. Are you familiar with a penitentiary pack
24 or a pen pack?

25 A. A pen pack?

1 Q. Yes. Are you familiar with that term?

2 A. No, I'm not familiar with it.

3 Q. All right. I'm going to go to page Bates
4 48395, and it may take a moment. This is a rather
5 thick one.

6 Mr. Romero, are you familiar with this
7 judgment, sentence, and commitment?

8 A. Yes.

9 Q. And what is this?

10 A. It's a plea bargain that I took for the
11 burglary.

12 Q. All right. So in this document, in 1978,
13 were you convicted, after a guilty plea, of
14 residential burglary, larceny, and escape from jail?

15 A. Yes, I was.

16 Q. And how old were you in 1978?

17 A. In '78, I think I was, like, 19.

18 Q. And on the bottom of that page, continued
19 onto the next page, were you sentenced to two to 10
20 years for each of those counts?

21 A. Yes, I was.

22 Q. Now, I'm going to move backwards in your
23 penitentiary pack to Bates 48393. In 1983, were you
24 convicted of armed robbery and aggravated battery?

25 A. Yes, I was.

1 Q. And for those sentences, were you
2 convicted and sentenced to prison for a total of
3 seven years?

4 A. I think it was eight years.

5 Q. And at the bottom here, it says, "Two
6 years of said sentences shall be suspended and
7 defendant is to serve a total of seven years"?

8 A. Yes, two years were suspended then, yeah.

9 Q. Now I'm going to move back to 1987 on
10 page -- Bates No. 48391. Four years later, in 1987,
11 were you convicted of auto burglary?

12 A. Yes.

13 Q. And were you sentenced to 18 months in
14 prison for that conviction?

15 A. Yes, I was.

16 Q. I'm going to move back to Bates No. 48388.
17 Five years later, in 1992, were you convicted of
18 commercial burglary and shoplifting?

19 A. Yes.

20 Q. Were you sentenced to five and a half
21 years with one and a half years suspended, for a
22 total of four years?

23 A. Yes, I was.

24 Q. I'm going to move back to Bates No. 48385.
25 In 1995, were you convicted of breaking and

1 entering?

2 A. Yeah.

3 Q. And were you sentenced to nine and a half
4 years with one and a half years suspended, for a
5 total of eight years?

6 A. Yes.

7 Q. I'm going to move back to Bates No. 48383.
8 In 2000, was your probation revoked and were you
9 sentenced to nine and a half years with credit for
10 eight and about three-quarter years, for a total of
11 210 more days' incarceration?

12 A. Yes.

13 Q. Now I'm going to move back now to Bates
14 No. 48378. In 2004, were you convicted of
15 trafficking in heroin?

16 A. Yes, I was convicted of that.

17 Q. And were you sentenced to 18 years, five
18 months, with eight years and five months suspended,
19 for a total sentence of 10 years?

20 A. Yes.

21 Q. And Bates No. 48373. In 2005, one year
22 later, were you sentenced to 18 months'
23 incarceration for a failure to appear?

24 A. Yes.

25 Q. Mr. Romero, when did you get out of the

1 New Mexico Corrections Department?

2 A. The last time I got out was October 2015.

3 Yeah, 2015.

4 Q. Approximately how much of your life have
5 you spent incarcerated?

6 A. Approximately, I'd say, like, 32 years,
7 off and on; 33, maybe.

8 Q. Mr. Romero, when did you decide or agree
9 to cooperate in this federal case?

10 A. When did I decide?

11 Q. Yes.

12 A. Well, I was doing jail time, and I talked
13 to a couple of federal agents, and they ran down the
14 RICO Act to me. And the SNM that I was acquainted
15 with before it turned into a creature that I never
16 even thought it would, you know, become.

17 Q. What do you mean?

18 A. People were getting in through the air
19 vents; people were saying they were in the SNM
20 without anybody bringing them in; and people were
21 going on their own agenda. There was no
22 organization -- or, you know, there was a whole --
23 everybody was just hating on each other, you know,
24 and I didn't want any part to do with it.

25 Q. And did you agree to cooperate in this

1 case after you spoke to federal agents in 2015?

2 A. Yes.

3 Q. As part of your agreement in this case,
4 has the federal government paid you for work that
5 you've done in this case?

6 A. Have they paid me?

7 Q. Yes.

8 A. Yes.

9 Q. And were those payments in exchange for
10 times when you would come and meet with the FBI to
11 talk to them?

12 A. Yes.

13 Q. Do you know how much you've been paid by
14 the FBI?

15 A. I never added it up. No, I don't.

16 Q. Would \$2,855.43 sound about right?

17 A. I don't know about the 43 cents. They
18 never gave me pennies. But it sounds about right on
19 the thousands.

20 Q. Sometimes when you met with FBI agents,
21 would they provide you food or buy you fast food?

22 A. Sure, when I was -- yes.

23 Q. I want to talk to you about Gerald
24 Archuleta. Do you know who that is?

25 A. Yes, I know that, yes.

1 Q. Who is Gerald Archuleta?

2 A. He's an SNM member.

3 Q. Does he also go by the name Styx?

4 A. Yes.

5 Q. And how do you know Gerald Archuleta,
6 aside from the fact that he's an SNM member?

7 A. When I came back from Oregon, from out of
8 state, in '98, I met him at the North facility. I'd
9 known him a little bit prior to that, but not that
10 good. And then we both got out around 2000, around
11 there, and we hung around, just briefly. And he
12 came back, was doing time. And his girlfriend -- me
13 and her got together, and me and him had problems
14 with that, you know. Well, he had a problem with me
15 on it, you know.

16 Q. So I want to talk to you a little bit more
17 about that. Did you and Mr. Archuleta communicate
18 while he was incarcerated, and did you communicate
19 through another person?

20 A. No, I never communicated with another
21 person.

22 Q. How did it come about that you got
23 together with Mr. Archuleta's girlfriend?

24 A. We just started hanging around together,
25 and I think me and her had more in common than she

1 had with Gerald Archuleta.

2 Q. Did you know at the time that she was
3 Gerald Archuleta's girlfriend?

4 A. Yes, I did.

5 Q. And approximately what time period or what
6 year was this that you got together with Mr.
7 Archuleta's girlfriend?

8 A. About 2000, 2001.

9 Q. And what happened when you got together
10 with Gerald Archuleta's girlfriend?

11 A. What do you mean, what happened?

12 Q. Did Mr. Archuleta do anything about that?

13 A. He did several things. He tried to -- you
14 know, he just -- I mean, what anybody would do if
15 somebody got with my girlfriend and I was
16 incarcerated. I would hate on that person, you
17 know. But he tried to throw false paperwork on me
18 that I was an informant, tore off the name. Me and
19 the guy had the same name. He tried to get a lot of
20 guys to go against me, and it started to form
21 another SNM; out with the old and in with the new.
22 And it was just all kinds of things, you know; just
23 different ideas going around.

24 Q. I want to talk to you about a couple of
25 those things. When you say he tried to put out

1 false paperwork on you, do you mean that he had
2 tried to make it look like there was paperwork that
3 you had snitched?

4 A. There was a guy named Julian Romero, and
5 he's younger than I was. And he did a burglary of
6 somebody else named Frank Richards. And through
7 there, I guess he tore off the date of birth. I
8 don't know how he did it. But he sent it around,
9 said, "Look. Julian Romero is an informant."

10 So everybody fell for it and that's where
11 a lot of people started throwing me under the bus
12 and stuff, you know.

13 Q. And in your experience with the SNM --
14 well, let's see. You joined the SNM in
15 approximately 1981 or 1982; is that right?

16 A. In 1982. It was in 1982.

17 Q. And are you still a member today, or have
18 you renounced your membership?

19 A. I don't want to spill this all over the
20 place. I don't want to make it look like I peed on
21 myself.

22 Ask me that again.

23 Q. Are you still a member of the SNM today?

24 A. I'm going to be a member till the day I
25 die, even if it's as an informant or whatever. You

1 don't get out of the SNM until the day you die, no
2 matter what, even if you're an informant, if you
3 went out with somebody else's girlfriend, any kind
4 of -- anything. It's for life.

5 Q. Okay. So if you joined in 1982, and it's
6 2018, have you been a member of the SNM for about 36
7 years?

8 A. Yes.

9 Q. And in those 36 years, what happens if
10 there is paperwork saying that an SNM member
11 informed to police or to authorities? What happens
12 to that SNM member?

13 A. Well, if somebody wants to take up the
14 slack there and they want to come in and shoot me or
15 try to stab me behind my back or whatever, it will
16 happen.

17 Q. So does that mean that it's an automatic
18 green light or hit put on someone if there is
19 paperwork showing they informed?

20 A. Of course. Yes.

21 Q. So did Mr. Archuleta put a green light on
22 you after you got together with his girlfriend?

23 A. Mr. Archuleta put a green light on me as
24 soon as he could. Yeah, it was around there.

25 Q. You talked about different SNM groups

1 forming. Was there a group that sort of followed
2 you, and a group that followed Mr. Archuleta?

3 A. I heard something about All Stars or
4 something, but I never really followed it, because
5 the SNM can't split like that, you know. It's
6 just -- like I say, it turned into a creature that I
7 just couldn't understand anymore, because of people
8 that were not really -- you know, just out of it and
9 everything; just got into the SNM and were saying
10 they were SNM. And so, yeah, another group started.
11 You know, it just got out of hand, you know.

12 Q. So Mr. Romero, I think you answered my
13 next question first. Although there was some
14 division in the SNM, was it still one SNM Gang?

15 A. It will always just be one SNM.

16 Q. And I think you said that you agreed to
17 cooperate while you were still incarcerated; is that
18 right? When the federal agents came and talked to
19 you; is that right?

20 A. Yes.

21 Q. And you said that you got out of prison
22 the last time in October of 2015.

23 A. It was around that time, yes.

24 Q. In 2016, was there a federal complaint
25 filed charging you with conspiracy to distribute

1 Suboxone for the time period of March 2012 to
2 October of 2015?

3 A. Yes, there was.

4 Q. And at some point, was that complaint
5 dismissed?

6 A. Yes.

7 Q. And October 2012 to October 2015 -- that's
8 before you agreed to cooperate in this case; is that
9 true?

10 A. Yes.

11 Q. Where were you July 13 of 2015?

12 A. July 13, 2015? I was in Las Cruces, at
13 the penitentiary in Las Cruces.

14 Q. Is that the Southern New Mexico
15 Correctional Facility?

16 A. Yes, it is.

17 Q. And where were you housed? In what pod?

18 A. I can't recall. I know it was yellow pod,
19 but I can't remember the exact number of the pod.

20 Q. Was it an SNM pod?

21 A. Yes, it was an SNM pod.

22 Q. And I think you said -- was it yellow pod?

23 A. Yes.

24 Q. Who else was in the pod with you, that you
25 remember?

1 A. I really didn't know them that good,
2 but -- I can't recall their names. I think one was
3 named Pete. That's the only one that I remember.
4 There was four -- there was eight people in there
5 with me.

6 Q. Is that Pete Aronda?

7 A. No, 16 people with me. Yeah, Pete Aronda
8 was in there.

9 Q. Was Jerry Montoya in there with you?

10 A. He was in there for a while, but then they
11 moved him back to lockup at the North facility.

12 Q. Was Lupe Urquizo in that pod?

13 A. Yes, he was.

14 Q. Was Christopher Chavez, or Critter, in
15 that pod with you?

16 A. He had already gotten out, final.

17 Q. Was Baby G, or Jonathan Gomez, in there
18 with you?

19 A. Yes, he was there.

20 Q. Was Conrad Villegas in there with you?

21 A. Yes, he was in there.

22 Q. Was Mario Rodriguez in there with you?

23 A. Yeah.

24 Q. And are all those SNM members?

25 A. Yes.

1 Q. How do you know Conrad Villegas?

2 A. Well, he used to ask me to make phone
3 calls to his -- to his wife, to find out where she
4 is, through my wife. He was having my wife make
5 phone calls to see what's going on, why wasn't she
6 sending money, and stuff. So I was doing him favors
7 like that. We were getting along pretty good, you
8 know.

9 Q. And so were you helping him out by having
10 your wife contact his wife?

11 A. I was trying to help him out, yeah.

12 Q. Did your wife help put money on Conrad
13 Villegas' books?

14 A. No, I never heard of that.

15 Q. What happened on July 13 of 2015?

16 A. I can't recall too good. All I know is, I
17 just got -- I just got knocked out. I don't know.
18 I don't know -- that day -- that day just leaves my
19 mind, you know? I got cold-cocked, I guess. I
20 don't know.

21 Q. Before July 13, 2015, were you and the
22 other members of the yellow pod in lockdown status?

23 A. Yes.

24 Q. And what does "lockdown status" mean?

25 A. 23 hours a day in their cell, maybe 15

1 minutes for a shower, and an hour for yard, and the
2 rest inside your cell. And anytime you left your
3 cell, you were handcuffed.

4 Q. And was the New Mexico Corrections
5 Department taking you and yellow pod off of lockdown
6 on July 13, 2015?

7 A. Yes, they were talking about taking us
8 off, and they did.

9 Q. So at rec time on July 13, 2015, was that
10 the first time that you were allowed to be on the
11 tier with other SNM members at the same time?

12 A. Yes.

13 Q. And what happened on July 13, 2015, as
14 soon as you were allowed out on the tier with other
15 members of the SNM for the first time?

16 A. Like I say, you know, hearsay is no good
17 in here, you know. But I hear that I just got
18 knocked out, and I can't remember too much.

19 Q. What do you remember?

20 A. Just being on the hospital gurney, being
21 sewed up around my eyes and being helicoptered to El
22 Paso.

23 Q. Do you remember being let out of your
24 cell?

25 A. Yes, I remember being let out.

1 Q. And what do you remember happening at that
2 time?

3 A. Just I was talking to somebody, and from
4 that point on, it just goes blank on me.

5 Q. And what's the next thing you remember
6 after talking to somebody?

7 A. Waking up on a gurney, being sewed up,
8 like I said, you know, around my eyes and stuff.

9 Q. Were you -- do you remember being
10 transported to Memorial Medical Center here in Las
11 Cruces?

12 A. Yes, I remember the helicopter ride.

13 Q. Do you remember talking to anyone in the
14 hospital room? Any corrections officers?

15 A. No.

16 Q. At some point do you remember being
17 transferred from Memorial Medical Center to El Paso,
18 a hospital in El Paso?

19 A. Yes, I remember being transferred over
20 there.

21 Q. And how were you transferred?

22 A. The helicopter. I never went back to the
23 hospital. Never went back to the hospital.

24 Q. I'm going to show you what's been admitted
25 as Defendant's Exhibit G1. Do you recognize what's

1 depicted in that photograph?

2 A. Yes. There's two cells, and a trash can
3 in the middle or something.

4 Q. Where is this?

5 A. That looks like red pod.

6 Q. Do you know that this is 1-A A pod, or
7 yellow pod, in the Southern New Mexico Correctional
8 Facility?

9 A. This is -- I'm pretty sure 1-A is where we
10 were housed at. But that looks like red pod.

11 Q. All right. Let me show you Defendant's
12 Exhibit G2. Do you remember what cell you were
13 housed in on July 13, 2015?

14 A. I can't remember the number, but I was at
15 the end, right next to the shower.

16 Q. Let me show you Government's Exhibit G4
17 and G5.

18 A. I was in 113.

19 Q. You were in cell 113 here?

20 A. Looks like.

21 Q. All right. And I'm circling "113" here on
22 Defendant's Exhibit G5. Just to the left of that,
23 where there's a grated door open, is that the
24 shower?

25 A. Yes.

1 Q. And I'm going to play for you Government's
2 Exhibit 269.

3 (Tape played.)

4 Q. Have you ever seen this video, Mr. Romero?

5 A. I've never seen the video.

6 Q. Okay. Do you know what we're looking at
7 here?

8 A. Looks like 1-A C pod.

9 Q. Okay. Go ahead and play the video.

10 (Tape played.)

11 Q. So I think -- does this refresh your
12 recollection as to where you were housed on July 13,
13 2015?

14 A. It looks like I was under 1-A.

15 MR. BECK: Please press pause.

16 A. The one right there in the corner, by the
17 door, the bottom tier.

18 Q. So I paused this video. It says Channel
19 7, 7/13/2015, 14:37:10:906. And I'm circling right
20 under "1-A C pod" here. Is that the cell that you
21 were housed in on July 13, 2015?

22 A. That's the cell I was housed in.

23 Q. So when I was showing you those exhibits
24 of yellow pod --

25 A. It was at the end, right before you went

1 out to the yard. And then the shower is right
2 there.

3 Q. So you weren't housed in that cell, but it
4 was a similar layout here in the green pod; is that
5 right?

6 A. All those pods were similar.

7 Q. Is that a yes?

8 A. Yes.

9 MR. BECK: Please press "play."

10 (Tape played.)

11 Q. So is that you depicted in the middle of
12 this screen here, having just come out of now the
13 shower room?

14 A. Yes.

15 MR. BECK: Please press pause.

16 Q. So now it's at 14:37:30:906. Do you know
17 who the two gentlemen in the front bottom left of
18 this screen are?

19 A. One is Pete Aronda, but I don't know who
20 that other one is. It's grainy. I can't --

21 Q. And which one is Pete Aronda?

22 A. The bald one.

23 Q. So is that the gentleman in gray that I
24 circled there on the left of the screen in front of
25 the TV?

1 A. Yes.

2 Q. And where are you in this frame?

3 A. It looks like I'm over there on that --
4 under the tier, talking to somebody in the window.

5 Q. Do you know who you're talking to?

6 A. I don't remember who that was.

7 Q. Okay. And so I'm circling the person
8 right in the middle in front of the door in the
9 greens. Is that you?

10 A. That's me.

11 MR. BECK: Please press play.

12 (Tape played.)

13 MR. BECK: Please press pause.

14 Q. I stopped the video here at 14:38:22:921.
15 What just happened?

16 A. What just happened?

17 Q. Yes, sir.

18 A. It looks like somebody came in and I fell
19 down.

20 Q. Right. Do you remember that?

21 A. It's real fuzzy in my mind.

22 (Tape played.)

23 Q. And as the video is playing, what do you
24 see happening on the screen back there with you?

25 A. Looks like somebody is helping a drunken

1 person get up.

2 Q. Do you know if you were assaulted on July
3 13 of 2015?

4 A. Just by hearsay and what I've heard. But
5 I can't remember that too good.

6 Q. Does this video look like you're being
7 assaulted?

8 A. Like I said, it looks like somebody got me
9 and just helping me up or doing something with me
10 there. I don't know. I can't see nobody doing this
11 or doing that or anything. It's real grainy. But
12 yeah, it sort of looks like I'm getting the crap
13 knocked out of me.

14 Q. I paused the video at 14:40:18:921. What
15 do you see in the bottom left-hand side of the
16 screen under 1-A C pod that I just circled for you?

17 A. It looks like I'm struggling to getting
18 up.

19 Q. And what do you see just below you and to
20 what would be your right there?

21 A. Just the sidewalk. I just see a sidewalk.
22 I don't see anything else.

23 Q. You don't see a red spot in that screen?

24 A. Yes, I see a red spot on the floor.

25 Q. All right.

1 (Tape played.)

2 Q. I just paused it at 14:40:48:921. It
3 looked like you got up on the stoop there and talked
4 to the other two gentlemen in the frame. Do you
5 remember that?

6 A. I don't remember that.

7 (Tape played.)

8 Q. I stopped it at 14:41:06:890. It looked
9 like you walked into the back of the pod there.
10 What's in the back of the pod?

11 A. Looks like the shower and the back door.

12 Q. All right. And then you grabbed -- what
13 do you have in your hands right now?

14 A. Looks like my towel.

15 Q. Do you remember walking into the shower
16 and grabbing a towel?

17 A. I don't remember, but it looks like I got
18 something white in my hands.

19 (Tape played.)

20 Q. I paused the video at 14:41:37:906. And
21 you just exited the frame. What is -- what would be
22 to the right of this frame where you just walked
23 out, if you know?

24 A. That would be the stairway you go to the
25 front door.

1 Q. Do you remember going up that stairway to
2 the front door?

3 A. No, I don't remember that.

4 Q. Mr. Romero, how long were you in the
5 hospital?

6 A. Three days. I'm pretty sure it was three
7 days.

8 Q. And what happened? What injuries resulted
9 from this assault?

10 A. Well, they did the usual, MRI, checked
11 behind my brain, checked to see if I had any broken
12 bones in my face.

13 Q. And what did they find?

14 A. Just that -- they just found blood clots
15 all over my eyes and in my nose, and one of my teeth
16 were missing, and stuff like that.

17 Q. Did they find an indentation in your head?

18 A. Just a bunch of cuts up here where they
19 had sewed me up, where I had stitches.

20 Q. Do you remember that they found an
21 indentation in your head?

22 A. No.

23 Q. In the complaint that was filed in federal
24 court in 2016, why were you charged with the
25 conspiracy to distribute Suboxone? What did you do?

1 A. I got some Suboxone through a letter, and
2 I was trying to make a little bit of canteen money
3 and stuff. And I had a friend that was out there in
4 population that was sending me some sometimes in my
5 laundry bag and stuff like that.

6 Q. So were you charged with conspiracy to
7 distribute Suboxone because you were getting
8 Suboxone into the prison from the outside?

9 A. It was already in when I was getting it.

10 Q. Were you getting it through the mail? Is
11 that what you said?

12 A. I got one through the mail.

13 Q. And did you get approximately 60 hits of
14 Suboxone?

15 A. Approximately.

16 Q. And were you an SNM member on the inside
17 of the prisons at that time?

18 A. Like I said, I'm an SNM member till the
19 day I die.

20 Q. Did you sell the Suboxone inside of the
21 prison?

22 A. Just for canteen. But I'm mostly -- I'm
23 not going to say generous, but I try to help out as
24 many people as I can. I'm not selfish with it.

25 Q. So did you distribute the Suboxone to

1 other SNM members?

2 A. Yes, I helped other people.

3 Q. And was that part of the charges in this
4 conspiracy to distribute Suboxone?

5 A. Yes.

6 Q. You said you've been on Suboxone for the
7 last two years; is that right?

8 A. Yes.

9 Q. Are you now prescribed Suboxone?

10 A. Yes.

11 Q. And so when you said you've been on
12 Suboxone for the last two years, are you taking that
13 as prescribed?

14 A. Yes.

15 Q. I think we talked about, in 2004, you were
16 convicted of possession of heroin?

17 A. For trafficking heroin.

18 Q. For trafficking?

19 A. Yes.

20 Q. How did that conviction come about?

21 A. That conviction came about -- a friend of
22 mine gave me a ride home. Him and his girlfriend
23 were selling heroin and rock cocaine. And the
24 police said that there was an armed robbery that
25 happened at the store close by and that we fit the

1 description. And they got permission to check the
2 truck, and they found a .357 magnum gun in there,
3 and a vial with some heroin and some rock cocaine in
4 it.

5 Q. In 2003 were you shot?

6 A. Yes.

7 Q. And who shot you?

8 A. That would be hearsay. I don't know who
9 shot me. But like I say, hearsay would be thrown
10 out of court.

11 MS. DUNCAN: Your Honor, I object.

12 THE COURT: He was shot. We'll leave it
13 at that.

14 A. I was shot.

15 MR. BECK: May I have a moment, Your
16 Honor?

17 THE COURT: You may.

18 BY MR. BECK:

19 Q. Have you been interviewed or questioned by
20 anyone else about this case, if you remember?

21 A. About which case?

22 Q. About this case, about this SNM case.

23 A. Yes.

24 Q. By whom?

25 A. Have I been interviewed?

1 Q. By anyone outside of the Government. By
2 anyone outside of the Government, if you remember.

3 A. No.

4 Q. You don't remember?

5 A. No, I don't.

6 Q. You don't remember being asked about this
7 case by anyone else?

8 A. No, I don't remember anyone else asking me
9 about it.

10 MR. BECK: Pass the witness, Your Honor.

11 THE COURT: Thank you, Mr. Beck.

12 Who wants to -- Ms. Duncan?

13 MS. DUNCAN: Your Honor, can we approach
14 briefly before --

15 THE COURT: You may.

16 (The following proceedings were held at
17 the bench.)

18 MS. DUNCAN: Your Honor, attorney Dean
19 Clark just walked into the courtroom, who represents
20 one of the cooperating witnesses in this case. And
21 so I'd ask the Court to admonish him in the same way
22 it has previous counsel.

23 MS. ARMIJO: His client is not testifying
24 in this trial.

25 THE COURT: Are you okay, then?

1 MS. DUNCAN: Okay. Thank you.

2 MS. BHALLA: Are we going to take a recess
3 at 10:00?

4 THE COURT: We can take it now.

5 MS. BHALLA: My client needs to use the
6 restroom. Sorry.

7 (The following proceedings were held in
8 open court.)

9 THE COURT: All right. Why don't we go
10 ahead and take our recess now? We'll be in recess
11 about 15 minutes. All rise.

12 (The jury left the courtroom.)

13 THE COURT: All right. We'll be in recess
14 for about 15 minutes.

15 (Court was in recess.)

16 THE COURT: All right. We'll go on the
17 record. Is there anything we need to discuss before
18 we bring the jury in, from the Government?

19 MS. ARMIJO: No, Your Honor. Thank you.

20 THE COURT: All right. I'm about to
21 circulate -- I'll probably get it to you pretty
22 quickly. I want my clerks to take a look at the
23 Perez additional redactions or objections. So I'm
24 about ready to go on those. So you might give me a
25 little guidance as to what is next. I did that one

1 first, because I think y'all did it first, but --
2 why don't y'all come up here for a second?

3 (The following proceedings were held at
4 the bench.)

5 THE COURT: The woman with the long hair,
6 sitting with Ms. Molina, is an assistant to Steve
7 Almanza, the attorney for Tim Garcia. I guess I
8 can't see any problem with that. Anybody have any
9 problem with that? I didn't know who she was.

10 MS. DUNCAN: We'd ask you to admonish her,
11 since Mr. Timothy Martinez is on re-call.

12 MS. BHALLA: Your Honor, can I bring up
13 something else?

14 THE COURT: Hold on. Ma'am, you're with
15 Steve Almanza, the attorney for Timothy Martinez?

16 ASSISTANT TO MR. ALMANZA: Yes, Your
17 Honor.

18 THE COURT: I'm not going to exclude you
19 from the courtroom, but I have been telling the
20 counsel that are sitting in that they're not to go
21 back and be a conduit for what's taking place here.
22 Because Timothy Martinez -- Timothy Martinez is
23 still subject to re-call, so we don't want witnesses
24 talking to him about what's being done here in the
25 courtroom. And so I don't want you or Mr. Almanza

1 to do that with Timothy Martinez. So you can't be a
2 conduit for what's going on in here to Mr. Timothy
3 Martinez. Do you understand that?

4 ASSISTANT TO MR. ALMANZA: Understood,
5 Your Honor.

6 THE COURT: All right.

7 MS. BHALLA: If I may, I think the
8 Government wants to introduce some exhibits or
9 publish them to the jury, the redacted transcripts
10 and the redacted audios of my client's conversations
11 with Gerald Archuleta. And I haven't gotten a
12 chance to review those yet. And so I'm not saying
13 that I'm going to necessarily object, but I'd like
14 the opportunity to review them first, because I
15 haven't had the chance to listen to the redacted
16 audio or to read the redacted transcripts.

17 THE COURT: Well, you better move pretty
18 quick.

19 MS. BHALLA: They've never been provided
20 to me.

21 THE COURT: I thought they had been
22 provided.

23 MR. BECK: The redacted transcripts and
24 the redacted audio were provided to counsel.

25 THE COURT: A week ago. I think two weeks

1 ago.

2 MS. BHALLA: I didn't get a copy of the
3 redacted audio.

4 THE COURT: We're working with that stuff.

5 MS. BHALLA: Yeah, I haven't --

6 THE COURT: You're about to see my first
7 order on Mr. Perez', so I don't know what --

8 MS. BHALLA: I got what you guys have
9 produced, but --

10 MR. BECK: That's what it is.

11 THE COURT: I guess my current thoughts
12 are, they've been out long enough. If you don't
13 have redactions, the train is going to kind of
14 leave. But it's not going to happen for a minute,
15 so go ahead and bring the jury in and y'all can
16 discuss. But you better start looking at that
17 promptly, because I'm about to make my first rulings
18 on it.

19 MS. BHALLA: Okay.

20 THE COURT: All right. All rise.

21 (The jury entered the courtroom.)

22 THE COURT: All right. Everyone be
23 seated.

24 Mr. Romero, I'll remind you that you're
25 still under oath.

1 And let's see. Ms. Duncan, you were going
2 to bring your cross-examination of Mr. Romero.

3 MS. DUNCAN: Your Honor, Mr. Baca does not
4 have any questions for Mr. Romero.

5 THE COURT: Thank you, Ms. Duncan.

6 Ms. Bhalla, do you have anything? Mr.
7 Maynard?

8 MR. MAYNARD: Your Honor, I think not.

9 THE COURT: All right.

10 Mr. Villa? Ms. Fox-Young?

11 MR. VILLA: No questions, Your Honor.

12 THE COURT: Ms. Jacks? Mr. Jewkes?

13 MS. JACKS: No questions, Your Honor.

14 THE COURT: All right. You may step down,
15 Mr. Romero.

16 Is there any reason that Mr. Romero cannot
17 be excused from the proceedings? Mr. Beck?

18 MR. BECK: Not from the Government, Your
19 Honor.

20 THE COURT: How about from the defendants?
21 Ms. Duncan?

22 MS. DUNCAN: No, Your Honor.

23 THE COURT: Anyone else?

24 All right. You are excused from the
25 proceedings. Thank you for your testimony.

1 All right. Mr. Castellano, does the
2 Government have its next witness or evidence?

3 MR. CASTELLANO: Yes, sir. The United
4 States calls Sergeant Martin Espinoza.

5 THE COURT: Mr. Espinoza, if you'll come
6 up and stand next to the witness box on my right,
7 your left, before you're seated, my courtroom
8 deputy, Ms. Standridge, will swear you in.

9 THE CLERK: State and spell your name for
10 the record.

11 THE WITNESS: My name is Martin Espinoza.
12 M-A-R-T-I-N, E-S-P-I-N-O-Z-A.

13 THE COURT: Mr. Espinoza.
14 Mr. Castellano?

15 MR. CASTELLANO: Thank you, Your Honor.

16 MARTIN ESPINOZA,
17 after having been first duly sworn under oath,
18 was questioned, and testified as follows:

19 DIRECT EXAMINATION

20 BY MR. CASTELLANO:

21 Q. Good morning, sir. Can you please tell us
22 what you do for a living?

23 A. I'm a corrections officer at Southern New
24 Mexico Correctional Facility. I'm a sergeant there.

25 Q. How long have you been a corrections

1 officer?

2 A. 21 years.

3 Q. What are your current responsibilities at
4 the facility?

5 A. I oversee the three housing units, which
6 is Housing Unit 3-A and Housing Unit 3-B.

7 Q. And what are some of your responsibilities
8 as a sergeant at the facility?

9 A. I make sure that urinalyses are done on a
10 monthly basis, random urinalyses, make sure that all
11 pods are clean, phone yard areas are clean. I also
12 ensure that inmates get their bedding when they come
13 in, and bedding is taken back to the laundry when
14 they leave, and uniforms, as well. Security is
15 mostly part of it.

16 Q. What's the purpose of conducting
17 urinalysis tests in prison?

18 A. To mainly deter drug use.

19 Q. And can you tell the members of the jury
20 if an inmate tests positive for a controlled
21 substance, can there be disciplinary problems for
22 them?

23 A. Yes, there can be. There will be a
24 disciplinary report made if they come up positive
25 for drugs.

1 Q. Do you have any involvement with the K-9
2 program there at the facility?

3 A. Yes, sir. I am actually quite involved in
4 it. I actually volunteer also on the outside. We
5 have pet -- dog fairs, I'm sorry, dog fairs. And I
6 volunteer for that. And I'm a sponsor for the 4
7 Paws Dog Club inside the prison, as well.

8 Q. What's the purpose of the K-9 program at
9 the facility?

10 A. I'm sorry, it's not actually a K-9
11 program. It's a dog program, and it's pretty much
12 to allow inmates to have some kind of a
13 responsibility, as well as get a dog to be adopted
14 or for -- give a dog a better chance to be adopted
15 on the outside for someone to take home.

16 Q. Are those inmates responsible for training
17 and taking care of the dog?

18 A. Yes, they are. We have a gentleman that
19 comes in from Las Cruces and trains the inmates to
20 train their dogs and behavior.

21 Q. And are there criteria for which inmates
22 can or cannot be part of that program?

23 A. Yes, sir. They can't have sexual crimes,
24 or they can't have any disciplinary reports,
25 especially -- well, they can, but they have to be

1 cleared of more than six months or more, but not any
2 recent.

3 Q. I want to take you back to July 13 of
4 2015. Can you tell the members of the jury if you
5 were on duty on that date?

6 A. Yes, I was.

7 Q. What were your responsibilities on July 13
8 of 2015?

9 A. I was the three-housing unit sergeant that
10 day.

11 Q. And what kind of housing unit is Unit 3-A
12 and 3-B? Are they general population inmates or
13 another population of inmates?

14 A. We have the level system, which is the
15 housing units for 3-A and 3-B are Level 3 inmates.

16 Q. At some point in time, were you called to
17 get a camera to do something?

18 A. Yes, sir, I was.

19 Q. What were you called to do?

20 A. To retrieve a camera from the housing
21 office, which is also the captain's office, and take
22 it to the infirmary.

23 Q. For what purpose?

24 A. To take pictures of the assault -- of
25 injuries from the assault.

1 Q. And the assault was on who?

2 A. Mr. Julian Romero.

3 Q. Was he an inmate at that time?

4 A. Yes, sir, he was.

5 Q. And did you -- since you worked in Housing
6 Unit 3-A and 3-B, did you really know Mr. Romero?

7 A. No. I rarely work at the housing unit
8 where he was housed at. Maybe on an overtime --
9 once in a long, long time. So no, I didn't know him
10 that well.

11 Q. After having arrived at the infirmary with
12 a camera, did you then take pictures to document his
13 injuries?

14 A. Yes, sir, I did.

15 Q. What do you remember about his injuries?

16 A. He had an indentation on the right side of
17 his skull, and his eyes were -- his face was so
18 swollen that his eyes were shut. He was covered in
19 blood. That's about the extent of it.

20 Q. What can you tell us about his demeanor,
21 how was he acting at that time?

22 A. He was very quiet. It almost seemed like
23 he was in shock.

24 Q. Did you ask him what happened?

25 A. No, I didn't.

1 Q. Why not?

2 A. There was a lot of people around to begin
3 with, and in their culture, they really don't
4 snitch. They don't tell.

5 Q. Okay. Even if you asked, did you really
6 expect to get an answer back from him?

7 A. No.

8 MR. CASTELLANO: May I approach the
9 witness, Your Honor?

10 THE COURT: You may.

11 BY MR. CASTELLANO:

12 Q. Sergeant Espinoza, I'm going to approach
13 you with what has been marked for identification as
14 Government's Exhibits 254 through Exhibit 264.

15 MR. CASTELLANO: May I approach, Your
16 Honor?

17 THE COURT: You may.

18 BY MR. CASTELLANO:

19 Q. So, sir, I'll have you review those
20 quietly to yourself. And once you're finished, let
21 us know if you recognize those exhibits.

22 A. Yes, sir. These are the pictures I took
23 that day.

24 Q. Can you tell us if these pictures are a
25 fair and accurate depiction of what you saw on that

1 day and what you photographed?

2 A. Yes, sir.

3 MR. CASTELLANO: Your Honor, at this time
4 I move the admission of Government's Exhibits 254
5 through 264.

6 THE COURT: Any objection?

7 MR. MAYNARD: No, Your Honor.

8 MR. LOWRY: No, Your Honor.

9 THE COURT: Not hearing any objection,
10 Government's Exhibits 254 through 264, inclusive,
11 without gaps, will be admitted into evidence.

12 (Government Exhibits 254 through 264
13 admitted.)

14 MR. CASTELLANO: And with the Court's
15 permission, I'd like to publish these to the jury.

16 THE COURT: You may.

17 BY MR. CASTELLANO:

18 Q. In the beginning, I'm going to show you
19 Government's Exhibit 254, Sergeant Espinoza, and you
20 can either see it up on the screen here, or the
21 monitor in front of you.

22 Okay. Starting with Exhibit 254, what are
23 we looking at?

24 A. I took a body shot of, you know, his whole
25 profile, yeah. You get that so you can tell he's

1 covered in blood. Blood is dripping. And his eyes
2 are swollen shut.

3 And if you look at the right side of his
4 skull, you can see -- it's not as pronounced in this
5 picture as it is in other ones, but you can see a
6 slight indention.

7 Q. I'm going to draw a picture around the
8 right side of his head.

9 A. That's right around the spot, yes, sir.

10 Q. Like you say, we may see it better in
11 another picture.

12 So let's turn to Exhibit 255. What can
13 you tell us about this picture?

14 A. Yeah. Of course, when I take pictures, I
15 try to get pictures of every angle, and this is the
16 left side, which is his eyes -- his eyes being
17 swollen shut. There is no indention on this side of
18 his skull.

19 Q. It may be hard to tell from this picture,
20 but can you tell us on his body -- I'm circling an
21 area on his left shoulder -- is that blood or is it
22 an abrasion from something rubbing against it? What
23 do you remember about that?

24 A. No, I don't remember.

25 MR. LOWRY: Speculating. I don't think

1 this witness is qualified to give us an answer.

2 THE COURT: Well, if he can remember what
3 is on these pictures, he can. If he can't remember,
4 he needs to tell us, but if he can remember, he can
5 do so. Maybe you could ask him if he remembers
6 first.

7 BY MR. CASTELLANO:

8 Q. Sure. Do you remember what that was?

9 A. No, I can't recall whether it's -- it's
10 blood or a scuff mark, no, sir.

11 Q. And it looks like something is running
12 down his face here. What do you recall about --

13 A. That's blood.

14 Q. Turning to Exhibit 256, what can you tell
15 us about that picture?

16 A. You know, you can see that indentation that
17 I was talking about just earlier, but it's not as
18 pronounced on the right side of his skull, on the
19 top -- towards the top.

20 Q. Turning now to Exhibit 257, I'm going to
21 circle something on the screen.

22 What do you remember about that portion
23 that I've circled?

24 A. Yeah. He had a very swollen elbow, and I
25 took a picture of that, as well.

1 Q. And on the picture it says, "Inmate Julian
2 Romero," it has a number, the date, and then, "Taken
3 by Sergeant Martin Espinoza." Is that -- were you
4 responsible for putting those notations on the
5 photographs?

6 A. Yes, sir.

7 Q. And as best as can you recall, with the
8 same thing on the left side of the screen -- I'm
9 underlining "7/13/2015, 2:49 p.m." As best as you
10 can remember, is that the correct date and time, as
11 well?

12 A. That is the correct time, yes, sir.

13 Q. Turning now to Exhibit 258. Is this just
14 another picture of the injuries? Do you see
15 anything else different here?

16 A. Yeah, here can you see that slash on top
17 of his eyebrow, way more pronounced than in the
18 previous picture, yes, sir.

19 Q. I'm circling something over his left
20 eyebrow.

21 A. That's right.

22 Q. And so was that -- was that an opening
23 above his eye, as best as you remember?

24 A. Yes, sir, it was.

25 Q. And do you recall whether that had to be

1 stitched closed?

2 A. I don't recall.

3 Q. Turning now to Exhibit 259. What can you
4 see in this picture?

5 A. I can see underneath his right eye there
6 is a lot of swelling, and it's shut due to it.

7 Q. And now looking at Exhibit 260.

8 A. There you can see that indentation on the
9 skull that I was talking about earlier, more
10 pronounced.

11 Q. You can actually touch your screen, sir,
12 if you can. Would you draw a circle around the
13 indentation?

14 A. (Witness complies.)

15 Q. Okay. So that part is the indentation you
16 previously told us about?

17 A. Yes, sir.

18 Q. Looking now at Exhibit 261. Do you see
19 any of the injuries any better from this, or was the
20 last picture better?

21 A. Yes, sir, you can also see that indentation
22 from this angle, as well.

23 Q. If you can, would you draw a picture
24 around that, please -- or a circle?

25 A. (Witness complies.)

1 MR. CASTELLANO: May the record reflect
2 the witness has drawn a rectangle around the right
3 temple area of the subject's head in that picture.

4 BY MR. CASTELLANO:

5 Q. Okay. Now, looking at Exhibit 262. Are
6 there any other additional injuries you see here, or
7 is this another picture documenting what you've
8 already told us about?

9 A. No.

10 Q. Turning to Exhibit 263. I want to ask you
11 if you can also see the indentation in this picture?

12 A. Yes, sir.

13 Q. And please circle that area.

14 A. (Witness complies.)

15 MR. CASTELLANO: Let the record reflect
16 the witness has also drawn a circle or a line around
17 the temple area on the right side of the subject's
18 head.

19 THE COURT: The record will so reflect.

20 BY MR. CASTELLANO:

21 Q. The next, Exhibit 264. I'm circling the
22 elbow here that you referenced earlier. Is there
23 anything else that you see in addition to the elbow
24 you previously told us about?

25 A. No, just nothing else besides just blood.

1 Q. Now, is this the prison infirmary, or is
2 this another hospital at this point?

3 A. That's at the prison infirmary.

4 Q. Now, can you tell the members of the jury
5 whether Mr. Romero was transported anywhere else
6 after the infirmary?

7 A. Yes, sir, he was. He was transported to
8 Memorial Medical Center.

9 Q. Where is that located?

10 A. Las Cruces.

11 Q. Were you a part of that transport team?

12 A. Yes, sir, I was.

13 Q. What was your role in the transport?

14 A. To chase the ambulance to emergency.

15 Q. What was the purpose of you following the
16 ambulance to the hospital?

17 A. The ambulance had to be escorted by
18 officers once they leave the facility, and he's no
19 exception.

20 Q. What happened when you arrived at Memorial
21 Medical Center?

22 A. There was a helicopter waiting, and the
23 ambulance wheeled him from the ambulance to the
24 helicopter.

25 Q. As far as you knew, did Mr. Romero receive

1 any treatment there, or was he immediately
2 transported to another location?

3 A. He was immediately transported.

4 Q. Where did he go?

5 A. From there, he went to University Medical
6 Center in El Paso, Texas.

7 Q. And you said there was a helicopter
8 waiting. Did he go there by helicopter or other
9 means?

10 A. Helicopter.

11 Q. Did you go with him in the helicopter, or
12 did you follow him in the vehicle?

13 A. I went in the vehicle.

14 Q. And so were -- were you responsible, then,
15 for making sure, as well, that you followed him to
16 the hospital in El Paso?

17 A. Yes, sir.

18 Q. So what happened once you arrived in El
19 Paso?

20 A. I was escorted by one of the guards there
21 to the room where he was at.

22 Q. And the same question: Were you there to
23 guard him since he was a prisoner?

24 A. That's right.

25 Q. And did you witness the medical team

1 treating him?

2 A. Yes, nurses would come in and out.

3 Q. Do you remember approximately how long you
4 stayed at the hospital with Mr. Romero?

5 A. Yes, sir. I was there until 11:30 that
6 night. Then I went home.

7 Q. What time did your shift begin that day?

8 A. At 7:30. My normal hours is 7:30 to 3:30.

9 Q. Is that 7:30 in the morning?

10 A. 7:30 in the morning, yes, sir.

11 Q. So this was a pretty long day for you?

12 A. It was, yes.

13 Q. Now -- and when you got off your shift at
14 11:30 p.m., was Mr. Romero still at the hospital?

15 A. Yes, he was actually admitted to the
16 hospital, yes.

17 Q. And since your shift ended at 11:30, did
18 someone have to come and relieve you?

19 A. Yes, sir, we were relieved by officers --
20 other officers.

21 Q. What did you do after you left the
22 hospital?

23 A. I went back to the facility and I
24 retrieved my vehicle, and then I went home.

25 Q. I also want to ask you if you were on duty

1 on March 7, 2014. Do you remember that date?

2 A. Yes, sir.

3 Q. And what were your duties at that time?

4 A. I was actually the compound sergeant that
5 day, yes, sir, monitoring movements of different
6 levels of inmates.

7 Q. And were you responsible for being
8 involved in a -- in an incident on that occasion on
9 March 7, 2014?

10 A. I was -- I went to master control to get
11 the keys to give access to the ambulance to come in
12 through the outer sally port, and then through the
13 ID/property office.

14 Q. What was the purpose of opening the gates
15 for the ambulance?

16 A. To come in -- into the facility, to give
17 access to them to the infirmary.

18 Q. And can you tell the members of the jury
19 if the ambulance was for someone named Javier
20 Molina?

21 A. Yes, sir.

22 Q. And what did you do after the ambulance
23 picked up Mr. Molina?

24 A. I went back to the compound to continue
25 monitoring.

1 Q. And so to maintain security at the
2 facility, then, were you responsible for both
3 letting the ambulance in and then letting it out,
4 and locking the gates or the fences?

5 A. That's correct. Once the ambulance left,
6 I went back and I secured all the gates.

7 MR. CASTELLANO: May I have a moment, Your
8 Honor?

9 THE COURT: You may.

10 MR. CASTELLANO: Thank you, Your Honor. I
11 pass the witness.

12 THE COURT: Thank you, Mr. Castellano.
13 Mr. Lowry?

14 MR. LOWRY: Thank you, Your Honor.

15 THE COURT: Mr. Lowry?

16 CROSS-EXAMINATION

17 BY MR. LOWRY:

18 Q. Good morning, Mr. Espinoza.

19 A. Good morning.

20 Q. Mr. Espinoza, you said that you typically
21 work on 3-A and 3-B; right?

22 A. That's right.

23 Q. So you don't normally go to Housing Unit
24 1-A?

25 A. No.

1 Q. And if I understood your direct testimony
2 correctly, you said you did not know Mr. Romero that
3 well?

4 A. No.

5 Q. Did you know him at all?

6 A. No.

7 Q. So you had never seen him before?

8 A. No. I -- when I worked once in a while on
9 overtime, which is probably once or twice a year, I
10 have to do rounds. But other than that, I don't
11 have familiarization with them at all.

12 Q. Okay. So you don't know what he looked
13 like before you took the photographs?

14 A. No, sir.

15 Q. Now, you said you were responsible -- I'm
16 not trying to put words in your mouth, but were you
17 responsible for the security of the compound?

18 A. For which incident?

19 Q. Well, for -- in your routine, normal job
20 duties, you said you were the sergeant for all the
21 housing units, I believe?

22 A. No, sir. For the incident with
23 Mr. Romero, I was the three-housing unit sergeant.
24 And for the incident for Mr. Molina, I was the
25 compound sergeant.

1 Q. Okay, what's the difference?

2 A. The three-housing sergeant is actually in
3 charge of those -- just those two units, and that's
4 it.

5 As far as the compound goes, it's just
6 monitoring movement of different levels, whether
7 Level 2 come in from the other unit, which is
8 across -- maybe a quarter mile away from us, Level
9 3s, Level 4s, or Level 6.

10 Q. Now, do you monitor those movements
11 visually, or do you use the camera system?

12 A. I do it visually. I have to actually
13 physically go and open gates to give them access.
14 You're pretty much out there all day, opening gates
15 and closing gates, and making sure that you don't
16 have different levels mixed.

17 Q. Do you ever use the internal security
18 camera system that's installed for the pods to
19 monitor the inmates?

20 A. No, sir.

21 MR. LOWRY: May I have a quick moment,
22 Your Honor.

23 THE COURT: You may.

24 MR. LOWRY: No further questions, Your
25 Honor.

1 THE COURT: Thank you, Mr. Lowry. Anyone
2 else? Mr. Jewkes? Mr. Maynard?

3 MR. MAYNARD: No questions, Your Honor.

4 THE COURT: Ms. Fox-Young?

5 MS. FOX-YOUNG: No, Your Honor.

6 THE COURT: Mr. Castellano, do you have
7 redirect of Mr. Espinoza?

8 MR. CASTELLANO: No, Your Honor.

9 THE COURT: All right. Mr. Espinoza, you
10 may step down.

11 Is there any reason that Mr. Espinoza
12 cannot be excused from the proceedings, Mr.
13 Castellano?

14 MR. CASTELLANO: No, sir.

15 THE COURT: Anybody have any objection on
16 him being excused?

17 MS. FOX-YOUNG: No, Your Honor.

18 THE COURT: Not hearing any objection,
19 you're excused from the proceedings. Thank you for
20 your testimony.

21 All right. Mr. Beck, does the Government
22 have its next witness or evidence?

23 MR. BECK: Yes, Your Honor. The United
24 States calls Gerald Archuleta.

25 Your Honor, while we're waiting, the

1 United States moves to admit Government's Exhibits
2 690, 691, and 246 --

3 THE COURT: You can bring him on in.

4 MR. BECK: -- which is Mr. Archuleta's
5 plea agreement, his addendum, and his penitentiary
6 pack, respectively.

7 THE COURT: What was the last number on
8 that?

9 MR. BECK: 246.

10 THE COURT: All right. Mr. Archuleta,
11 before you're seated, Ms. Standridge will swear you
12 in. So raise your right hand to the best of your
13 ability, and she'll swear you in.

14 GERALD ARCHULETA,
15 after having been first duly sworn under oath,
16 was questioned, and testified as follows:

17 THE CLERK: Please be seated. State and
18 spell your name for the record.

19 THE WITNESS: I'm Gerald Archuleta.
20 G-E-R-A-L-D, A-R-C-H-U-L-E-T-A.

21 THE COURT: Mr. Archuleta. Mr. Beck.
22 Any objection to 690, 691, and 246?

23 MR. LOWRY: No, Your Honor.

24 THE COURT: Not hearing any objection,
25 Government's Exhibits 690, 691, and 246 will be

1 admitted into evidence.

2 (Government Exhibits 690, 691, and 246
3 admitted.)

4 THE COURT: Mr. Beck.

5 DIRECT EXAMINATION

6 BY MR. BECK:

7 Q. Good morning, Mr. Archuleta.

8 A. Good morning.

9 Q. Are you now or have you ever been a member
10 of the Sindicato de Nuevo Mexico?

11 A. I've been a member of the Syndicate of New
12 Mexico, yes.

13 Q. And when were you brought into the SNM?

14 A. Around the middle of 1988.

15 Q. And where were you at that time?

16 A. At the main facility in cell block 5.

17 Q. Is that the main facility at the
18 Penitentiary of New Mexico in Santa Fe?

19 A. Yes, sir.

20 Q. And who brought you into the SNM?

21 A. There were several brothers that sponsored
22 me when I first arrived. The names were Fernie
23 Hernandez, Robert Martinez, Fred Dog Sanchez, Albert
24 Chavez, an individual by the name of Raccoon, who
25 was ultimately approved by high-ranking gang members

1 who were calling the shots at the time: Billy
2 Garcia, Marty Barros, and Phillip Cordova.

3 Q. After you were brought into the SNM
4 enterprise, what did you do for Phillip Cordova?

5 A. I participated in daily SNM activity,
6 which included distributing drugs, collecting
7 payment, assaults, and eventually stabbing.

8 Q. And why did you collect drug money for
9 Phillip Cordova?

10 A. Because that was one thing that was
11 expected of you as an SNM Gang member.

12 Q. How did you earn your bones or gain your
13 membership into the SNM?

14 A. Well, in the beginning, just taking part
15 as a tag-along, collecting drug debts, assaults, was
16 enough for the time being. But eventually I ended
17 up having to stab a couple people.

18 Q. Did you stab someone named Chaparro?

19 A. Yes, sir.

20 Q. What happened?

21 A. I was called to the chow area, and at the
22 table was Phil Cordova and Marty Barros and Albert
23 Chavez, which were, again, high-ranking members of
24 the SNM. They advised me that there was an
25 individual by the name of Chaparro that lived with

1 me, that he came out short on some drugs that he had
2 brought in for Phillip.

3 Q. What does "came out short on drugs he
4 brought in" mean?

5 A. Well, the amount wasn't what it was
6 supposed to be when it got to Phillip Cordova. In
7 other words, he got into the package. He asked
8 me -- he was specific about if I would be willing to
9 stab him in the neck and remove him from the line,
10 making an example out of him.

11 Q. Who asked you if you would stab Chaparro
12 in the neck?

13 A. Phillip Cordova.

14 Q. And did you stab Chaparro?

15 A. Yes, sir.

16 Q. Where did you stab him?

17 A. In the neck.

18 Q. And where did this take place?

19 A. This took place in cell block 3.

20 Q. In 1992, did you commit an SNM hit?

21 A. I'm not sure about what happened in 1992.

22 But the next hit that I participated in was on an
23 inmate by the name of Eddie Lopez.

24 Q. And when did that happen?

25 A. I'm not sure what year it was, but --

1 Q. Could it have been around 1992?

2 A. Yes, sir.

3 Q. And what happened with Eddie Lopez?

4 A. He had gotten to the facility. And again,
5 I was advised by Phillip Cordova simply that he was
6 no good, and that if I could remove him from the
7 line.

8 Q. When you joined the SNM, what was the
9 leadership structure of the SNM?

10 A. The leadership structure of the S was, at
11 the top, it was Billy Cordova, Marty Barros, and
12 Phillip Cordova.

13 Q. Did that structure of the SNM change at
14 some point?

15 A. At some point, yes, it did change. I
16 mean, they were always around. They never lost
17 their rank. But as they left, or some others were
18 transferred out of state, it did change.

19 Q. Did you hold the keys or were you the
20 leader for the SNM at any point?

21 A. Yes, sir.

22 Q. When was that?

23 A. That was approximately 1998. There was an
24 individual by the name of Angel Munoz, who was a
25 high-ranking member of the SNM. He had just came in

1 from out of state. He was about to get out, and he
2 gave me a spot.

3 Q. What do you mean, he was about to get out?

4 A. He was about to get out to the streets,
5 and --

6 Q. So was he the leader of the SNM before he
7 went out to the streets?

8 A. Yes.

9 Q. And when he went out to the streets, what
10 did he give to you?

11 A. He gave me his spot in the SNM.

12 Q. As the leader -- did he give you a
13 leadership position of the SNM at that point?

14 A. Yes, sir.

15 Q. And what did you do -- what structure did
16 you create as the leader of the SNM around that
17 time?

18 A. I created a four-man board which consisted
19 of five individuals to make the decisions for the S.

20 Q. Is that board also called the tabla?

21 A. Yes, sir.

22 Q. Who were the individuals on the tabla,
23 that you appointed to the tabla?

24 A. The five members were myself, Juan Mendez,
25 Rupert Michael Zamora, Robert Martinez, and Arturo

1 Garcia.

2 Q. And why did you put in place the structure
3 of the tabla?

4 A. So that there would be a group of
5 individuals; not only one person calling the shots
6 for the S, but a group of individuals that were able
7 to make decisions for the S.

8 Q. Below the tabla, what was the leadership
9 structure?

10 A. There was no leadership structure below
11 the tabla.

12 Q. Were there certain people at each
13 different facility throughout the state who led that
14 facility and reported to the tabla?

15 A. Yes, sir.

16 Q. Would you call them -- or does the SNM
17 call them key holders, or llaveros?

18 A. Yes, sir.

19 Q. How long did you stay on or control the
20 tabla after it was formed?

21 A. Until approximately 2011, when I was
22 released to the streets.

23 Q. Do you know the individual named Anthony
24 Ray Baca?

25 A. Yes, sir.

1 Q. How do you know Mr. Baca?

2 A. I know him as a high-ranking member of the
3 S, and was someone that was always my superior if he
4 was around.

5 Q. So what do you mean, your superior if he
6 was around?

7 A. This was an individual that had been
8 around a while, and he was always someone that
9 carried more rank than I did.

10 Q. If he was in the state, would he be the
11 leader of the SNM over you?

12 A. Yes, sir.

13 Q. What do you refer to that person as in the
14 SNM, your leader or someone above you in rank? What
15 do you refer to them as?

16 A. He's our jefe, our boss.

17 Q. Do you also refer to him as your Big
18 Homie?

19 A. As my Big Homie, yes, sir.

20 Q. Is Mr. Baca, the leader -- is he in this
21 courtroom?

22 A. I can't see him. Where are the defendants
23 seated at?

24 Q. These four tables here, each have one
25 defendant.

1 A. I don't see him. I don't see him.

2 Q. Do you see him in a suit at the back table
3 behind my right?

4 MR. LOWRY: Your Honor, objection.

5 THE COURT: Sustained. Sustained.

6 A. I cannot see Ray Baca.

7 BY MR. BECK:

8 Q. Okay. At some point, did the SNM come in
9 to different people following different older
10 members in the SNM?

11 A. Can you repeat the question?

12 Q. At some point did the SNM come in to serve
13 an organization where different members followed
14 different high-ranking members?

15 A. At some point -- I don't understand the
16 question.

17 Q. Sure. At some point, were there some
18 people who followed maybe you more than maybe
19 someone like Billy Garcia or Julian Romero?

20 A. Yes, sir.

21 Q. And how did that come about?

22 A. Well, once Angel gave me my position,
23 everybody that looked up to Angel automatically
24 followed me as their leader. Each older
25 high-ranking member of the S, including Julian

1 Romero and Billy, basically had their own following.

2 Q. And even though they had their own
3 following, was there always just one SNM Gang?

4 A. Yes. Each of us had our own following,
5 but if a problem ever came up with rival gangs, we
6 would all come together to be one.

7 Q. What rival gangs did the SNM have?

8 A. One such gang was the Los Carnales, which
9 are the LCs; the Surenos, who are from California;
10 and the Burquenos, who are from Albuquerque.

11 Q. And if an SNM member, before 2006 -- if an
12 SNM member was housed with or encountered someone
13 from the Los Carnales gang, what was he expected to
14 do under the rules of the SNM?

15 A. He was expected to assault him on sight as
16 soon as he seen him.

17 Q. At some point did that change?

18 A. Yes, sir.

19 Q. What happened?

20 A. A truce was discussed among the brothers,
21 and that's what happened.

22 Q. And were you involved in the discussion to
23 call the truce with the Los Carnales gang?

24 A. Yes, sir.

25 Q. How were you involved in that?

1 A. I was involved because I was in the tabla.
2 It was discussed in the tabla and with other members
3 of the SNM.

4 Q. I want to talk about the rules of the SNM.
5 What are some of the requirements for membership to
6 become a member of the SNM?

7 A. You can't be having child sex crimes; you
8 can't be a rapist; you can't be a rat, an informer.

9 Q. And how long is membership in the SNM?

10 A. It's for the rest of your life or until
11 you get killed.

12 Q. When did you leave the New Mexico
13 Department of Corrections?

14 A. I left in 2011.

15 Q. And when you left in 2011, who did you
16 appoint to take your place on the tabla?

17 A. Arturo Garcia.

18 Q. Who else was on the tabla at that time?

19 A. Robert Martinez, Michael Rupert Zamora,
20 Juan Mendez.

21 Q. And if Mr. Baca was in the state, what was
22 his position in the SNM?

23 A. The tabla would automatically be resolved
24 unless he preferred to keep it in place. But he
25 would be the one to make them decisions.

1 Q. And does Mr. Baca go by any other names?

2 A. Mr. Baca goes by the name of Pup.

3 Q. Does the SNM have any particular symbol
4 that identifies the SNM?

5 A. Usually it's a Zia with the S in the
6 middle of it.

7 Q. I think we talked about divisions in the
8 SNM Gang, but one SNM Gang. If there was -- at some
9 point, was the SNM going against the Aryan
10 Brotherhood gang in prison?

11 A. Yes, sir.

12 Q. And did you call hits or participate in
13 hits against Aryan Brotherhood members?

14 A. Yes, sir.

15 Q. If at that time, when there were different
16 groups following, if there was a battle with the
17 Aryan Brotherhood or another prison gang, would the
18 SNM come together and fight as one gang?

19 A. Yes, sir.

20 Q. When an SNM member gets out of prison and
21 hits the streets, what is that SNM member expected
22 to do?

23 A. He's expected to keep in touch with the S,
24 send money to brothers, and to assist in any way he
25 can.

1 Q. Does the SNM do anything with drugs on the
2 streets when they get out of prison?

3 A. Yes. They sell drugs.

4 Q. And what do they do with some of that
5 money?

6 A. They send it to the brothers in prison.

7 Q. Have you ever sent money to your SNM
8 brothers in prison?

9 A. Yes, sir.

10 Q. To whom?

11 A. To Fernie Hernandez.

12 Q. Have you ever been fronted drugs, when you
13 got out on the streets, to sell outside of prison?

14 A. Yes, sir.

15 Q. By whom?

16 A. By a brother named Chris Garcia.

17 Q. Did the SNM control violence inside the
18 prison?

19 A. Yes, sir.

20 Q. How?

21 A. Through fear and intimidation.

22 Q. I want to talk to you about drugs inside
23 the prison now. What happens when someone brings
24 drugs inside the prison to a pod where there are SNM
25 members?

1 A. They are expected to give a portion to the
2 SNM.

3 Q. And if that person is not an SNM member
4 and he doesn't give a portion to the SNM, what
5 happens?

6 A. He would be assaulted and the drugs would
7 be taken from him.

8 Q. If that person is an SNM member and brings
9 drug into the prison, what does that SNM member do
10 with the drugs?

11 A. He helps out his brothers, and it's
12 distributed to sell to make money for his fellow
13 brothers.

14 Q. Have you ever smuggled drugs into the
15 prison?

16 A. Yes, sir.

17 Q. And how did you do it?

18 A. Through visits.

19 Q. And what did you smuggle in through the
20 visits?

21 A. Heroin.

22 Q. And when you say "visits," do you mean
23 family visits or contact visits where someone who
24 you know visits you at the prison?

25 A. At the main facility, my wife has come to

1 see me, there are contact visits, and my visitors
2 bringing me drugs.

3 Q. Have you ever seen an SNM member brag
4 about something that he didn't do?

5 A. No.

6 Q. And have you ever seen an SNM member brag
7 about an assault or a murder that he didn't do?

8 A. No, not to my knowledge.

9 Q. And what would happen if someone does
10 that?

11 A. There would be consequences.

12 Q. And how would the SNM know whether that
13 person actually participated in the assault or the
14 murder?

15 A. Well, among the brothers it's common
16 knowledge who did what and when. And so for a
17 brother to claim responsibility for an incident that
18 he was involved in, or so-called involved in, it
19 would immediately be detected by other brothers.

20 Q. So common knowledge, is that learned
21 through what we've heard talked to as prison talk
22 out in the yard?

23 A. Either that, or just being in prison, yes.

24 Q. Mr. Archuleta, at this time I'm going to
25 show you some documents from your penitentiary pack.

1 I'm going to start at pages 20 and 21 of that
2 document, Exhibit 246. Page 20 is Bates No. 8881.
3 Mr. Archuleta, are you familiar with this
4 document?
5 A. Yes, sir, I'm familiar with it.
6 Q. What is it?
7 A. It's an agreement. It's in regards to an
8 involuntary manslaughter charge that I picked up in
9 1986.
10 Q. Is this your judgment, sentence, and
11 commitment when you were sentenced for involuntary
12 manslaughter in 1986 -- or 1987, sorry?
13 A. Yes, sir.
14 Q. And the next page, please. And were you
15 sentenced to two and a half years for the
16 involuntary manslaughter?
17 A. Yes, sir.
18 Q. What happened? Why were you convicted of
19 involuntary manslaughter?
20 A. Well, it started off, I had been drinking
21 with my uncle and he got into a confrontation with
22 three other individuals. After the confrontation,
23 these individuals were next door in a garage
24 carport, and I went inside and got a sawed-off
25 shotgun and shot at them, wounding them with

1 pellets.

2 From there, I ran to my uncle's house,
3 which was close by, to hide because the police were
4 everywhere. One of my cousins came in the house and
5 said that he thinks I killed somebody.

6 Q. And what happened after your cousin said
7 he thought you killed somebody?

8 A. I was stressed out. At that time I, for
9 whatever reason, I raised -- I put the gun to my
10 head and said, "I should kill myself."

11 My cousin said, "No, don't do it."

12 At that time, I lowered the weapon. As I
13 did so, I pulled the trigger with my hand on the
14 hammer to release the hammer. When the motion was
15 complete, the gun went off. It flew out of my hand.
16 And after my ears stopped ringing, my cousin advised
17 me that I had hit my cousin. During this
18 conversation, there was a cousin sitting to the side
19 that had nothing to do with the conversation itself,
20 and he was hit in the neck.

21 Q. And did your cousin die after that?

22 A. Yes, sir. He died as a result of that.

23 Q. I'm going to show you an order, sentence,
24 and commitment from 1987, which starts at Bates
25 8879. Was your probation revoked in 1985, because

1 of a robbery -- or excuse me, in 1987, because of a
2 robbery?

3 A. Yes, sir.

4 Q. And were you sentenced to three years
5 concurrent with the time you were serving at that
6 time?

7 A. Yes, sir.

8 Q. I'm going to show you a J&S from 1988
9 which starts on Bates 8876. Are you familiar with
10 this J&S?

11 A. Yes, sir.

12 Q. Go to the next page, please. In 1988,
13 were you convicted of second-degree murder with
14 aggravating circumstances?

15 A. Yes, sir.

16 Q. Were you sentenced to 12 years, plus four
17 years for being a habitual offender, for a total of
18 16 years?

19 A. Yes, sir.

20 Q. And why were you convicted of
21 second-degree murder with aggravating circumstances
22 in 1988?

23 A. For killing my wife.

24 Q. What happened?

25 A. She got pregnant from another man. I was

1 19. And I killed her.

2 Q. And how did you kill her?

3 A. I strangled her.

4 Q. What did you do after you strangled her?

5 A. I left the house and reported it.

6 Q. I'm going to show you a J&S from 2002,
7 which begins on Bates 8874. In 2002, did you plead
8 guilty to conspiracy to commit second-degree
9 murder -- or no contest, sorry?

10 A. Yes, sir.

11 Q. And for that no-contest plea to conspiracy
12 to commit second-degree murder, were you sentenced
13 to six years, plus four years as a habitual
14 offender, with six years suspended, for a total of
15 four years?

16 A. Yes, sir.

17 Q. And why were you convicted of conspiracy
18 to commit second-degree murder in 2002?

19 A. I took part in an SNM hit on another SNM
20 member that had paperwork on him. He had been
21 greenlighted, which means that he was to be executed
22 because he was an informant.

23 Q. And the person killed, was he an SNM
24 member?

25 A. Yes, sir.

1 Q. And did you take part in -- participate in
2 that or in ordering that hit?

3 A. Ordering it and planning it.

4 Q. And I'm going to go to a J&S from 2005.
5 In 2005, was your probation for that conspiracy to
6 commit second-degree murder revoked for possessing
7 or selling heroin? Or for purchasing, selling,
8 consuming possessing or distributing a controlled
9 substance?

10 A. Yes, sir. It was a dirty urine.

11 Q. And when your probation was revoked, were
12 you then imposed the total 10-year sentence for your
13 conspiracy to commit second-degree murder in 2002?
14 The total 10 years?

15 A. Yes, sir, I believe.

16 Q. I'm going to show you another J&S from
17 2005. Was your probation for that conspiracy to
18 commit second-degree murder later revoked again for
19 a failure to abide by your curfew?

20 A. Yes, sir.

21 Q. And what happened? Why did you fail to
22 abide by your curfew?

23 A. I had paroled to a program, and I didn't
24 make it home on time. I didn't make it to that
25 program on time. My curfew was 6:00, and I didn't

1 make it at 6:00.

2 Q. And at that point, was your probation
3 revoked and you were sentenced to prison for the
4 remaining 730 days on your 10-year sentence for
5 conspiracy to commit second-degree murder?

6 A. Yes, sir.

7 Q. I'm going to take you to a J&S from 2008.
8 It starts at Bates 8865. In 2008, were you
9 convicted of conspiracy to commit assault with
10 deadly weapon, possession of a firearm, and breaking
11 and entering?

12 A. Yes, sir.

13 Q. For that crime, were you sentenced to 18
14 months plus four years as a habitual offender for
15 each count?

16 A. Yes, sir.

17 Q. Were you given an actual term of seven
18 years in prison?

19 A. Yes, sir.

20 Q. And is it after that seven years in prison
21 that you were released from the Corrections
22 Department in 2011?

23 A. Yes, sir.

24 Q. And why were you convicted of conspiracy
25 to commit assault with a deadly weapon, possession

1 of a firearm, and breaking and entering in 2008?

2 A. Well, there was a confrontation at the
3 methadone clinic in 2006. There had apparently been
4 a hit placed on me by other SNM Gang members. As a
5 result, it ended in a shooting. I mean, we each had
6 guns, and I shot him, and we shot at each other.

7 Q. Where did you shoot at each other? Where
8 were you?

9 A. In the parking lot of the methadone
10 clinic, San Mateo.

11 Q. Is that San Mateo Road in Albuquerque?

12 A. Yes, sir.

13 Q. Were you charged by the federal government
14 in an indictment in this case?

15 A. Yes, sir.

16 Q. And at some point did you agree to
17 cooperate with the federal government?

18 A. Yes, sir.

19 Q. Why did you agree to cooperate with the
20 federal government?

21 A. Five years prior, when I got out, 2011, I
22 had already distanced myself from the S, because I
23 basically wanted something better for myself and for
24 my son. What was the question again?

25 Q. I think that answered it. That's fine.

1 What do you mean? Where did you go to distance
2 yourself from the S?

3 A. I went to Tennessee.

4 Q. And did you still keep in contact with
5 other SNM members after 2011, before you were
6 arrested in this case in 2015?

7 A. Yes, sir.

8 Q. Did other SNM members send you Suboxone
9 while you were in Tennessee?

10 A. Yes, sir.

11 Q. I'm going to show you what's been admitted
12 as Government's Exhibit 690. Are you familiar with
13 this document?

14 A. Yes, sir.

15 Q. Is this your plea agreement in this
16 federal case?

17 A. Yes, sir.

18 Q. And were you indicted based on the assault
19 of Julian Romero in this case?

20 A. Yes.

21 Q. I'm going to take you to page 2 of this
22 document, paragraph 4 -- actually, paragraphs 3 and
23 4.

24 A. Okay.

25 Q. So on paragraph 3, does that advise you

1 that you were agreeing to plead guilty to count 8 of
2 the indictment, charging you with violent crimes in
3 aid of racketeering activity, conspiracy to commit
4 assault resulting in serious bodily injury?

5 A. Yes.

6 Q. And was that because of the assault
7 resulting in serious bodily injury of Julian Romero?

8 A. Yes.

9 Q. And does paragraph 4 advise you that the
10 maximum term of imprisonment for this charge is
11 imprisonment of not more than three years?

12 A. Yes.

13 Q. Then I'll take you to page 9 of that
14 document. Is that your signature on the plea
15 agreement?

16 A. Yes, it is.

17 Q. And now I'll show you what's been admitted
18 as Government's Exhibit 691, and I'll go to page 2.
19 Is that your signature: Gerald Archuleta?

20 A. Yes, it is.

21 Q. And do you also go by or have you also
22 been referred to by the names Styx and Grandma?

23 A. Yes, sir.

24 Q. And I'll go back to page 1. Is this the
25 addendum to your plea agreement?

1 A. Yes, it is.

2 Q. Thank you.

3 Since you've been a cooperator, have you
4 been paid money by the federal government?

5 A. Yes, I have.

6 Q. And what is that -- how is that money paid
7 to you?

8 A. It's put on my account.

9 Q. And since you began cooperating in July --
10 or December of 2015, when you were indicted, do you
11 know how much you've been paid in the last over two
12 years?

13 A. Approximately 2,000 bucks.

14 Q. Does \$2,399.62 sound right?

15 A. Yes, sir.

16 Q. As part of your cooperation in this case,
17 did you agree to record other inmates in the prison
18 system?

19 A. Yes, sir.

20 Q. Were you also given less restrictions than
21 other inmates housed in a Level 6 facility while you
22 were cooperating?

23 A. Will you repeat the question?

24 Q. While you've been cooperating, were you
25 also provided less restrictions than other inmates

1 in a Level 6 facility?

2 A. No.

3 Q. In the course of this case, were you
4 provided a tablet to review your discovery?

5 A. Yes, I was.

6 Q. And at some point, was that tablet taken
7 away?

8 A. Yes, it was.

9 Q. Why was it taken away?

10 A. Several of the cooperators, including
11 myself -- we reset our tablet, which erased the
12 discovery. We enabled the Wi-Fi, and we were able
13 to have internet access.

14 Q. Were you allowed to have internet access
15 on your tablet?

16 A. No, sir.

17 Q. And what did you use the -- how long did
18 you have internet access on your tablet,
19 approximately?

20 A. Approximately four months.

21 Q. And what did you do with your tablet when
22 you connected to the Wi-Fi?

23 A. I attempted -- one time I attempted to get
24 hold of my son, sending him pictures that were taken
25 of me. And for the most part I was downloading

1 pornography.

2 Q. While you've been cooperating, have you
3 done drugs in the prison?

4 A. Yes, sir.

5 Q. What drugs have you done?

6 A. Suboxone.

7 Q. And how did you obtain the Suboxone?

8 A. I obtained it from those that were living
9 with me in the unit.

10 Q. And who is that?

11 A. For the most part, it was fellow
12 cooperators, Benjamin Clark, Jerry Montoya.

13 Q. And are you still using Suboxone in the
14 prison?

15 A. No.

16 Q. When did that stop?

17 A. Well, while I was in Sandoval County, I
18 got high for Christmas, and that's been the last
19 time I got high.

20 Q. So is that Christmas December 2017, the
21 last Christmas?

22 A. Yes, sir.

23 Q. I want to talk to you about Julian Romero.
24 Who is Julian Romero?

25 A. Julian was a high-ranking member of the

1 SNM. He was another one of my big homies.

2 Q. At some point did you call a green light
3 or authorize a hit on Julian Romero?

4 A. Yes, I did.

5 Q. When was that?

6 A. It was approximately 2001, maybe around
7 there.

8 Q. And why did you order or authorize a hit
9 on Julian Romero in 2001?

10 A. For having an affair with my wife.

11 Q. Do you know, did you used to communicate
12 with Julian Romero through your wife?

13 A. Yes, sir. That was -- we used our wives
14 and our visitors to communicate amongst each other,
15 specifically with the brothers that were on the
16 street. We would give the message to our visitor,
17 or in my case, to my wife, and she would take it to
18 the streets and pass on the message.

19 Q. Included in those messages, did you and
20 Julian authorize SNM hits on people?

21 A. Yes, we did, on one occasion.

22 Q. And who did you task with hitting Julian
23 Romero originally?

24 A. Originally, I tasked Playboy Munoz.

25 Q. Is that Frederico Munoz?

1 A. Yes, sir, Frederico Munoz.

2 Q. And what happened when you tasked him to
3 hit Julian Romero?

4 A. The end result was he located him and shot
5 him.

6 Q. And do you know where Frederico Munoz shot
7 Julian Romero, where they were located when it
8 happened?

9 A. He shot him in the leg.

10 Q. And what happened after Frederico Munoz
11 shot Julian Romero? Was the green light done, or
12 did it still remain?

13 A. No, it still remained.

14 Q. Why?

15 A. Because they missed him and the end result
16 was to kill him.

17 Q. At some point, was Julian Romero assaulted
18 at some point after 2003?

19 A. Yes, sir.

20 Q. And how do you know that?

21 A. I was made aware of this through phone
22 conversation with another brother by the name of
23 Chris Garcia while I was in Tennessee. I used to
24 communicate with Chris Garcia on a few occasions,
25 more than once, and he advised me that an assault

1 had been -- that an assault happened on Julian
2 Romero.

3 Q. Was this one of the conversations you had
4 with SNM members while you were in Tennessee after
5 you got out?

6 A. Yes.

7 Q. Did another inmate call you while you were
8 in Tennessee and advise you that Julian Romero was
9 assaulted, if you remember?

10 A. I don't recall. I specifically remember
11 Chris Garcia calling me.

12 Q. And did anyone tell you about the Julian
13 Romero assault while you were incarcerated, after
14 2011 and 2015 or '16?

15 A. Yes.

16 Q. Who was that?

17 A. Carlos Herrera.

18 Q. Do you know an SNM member Daniel Sanchez?

19 A. Yes, I do.

20 Q. And what other name does Daniel Sanchez go
21 by?

22 A. Dan Dan.

23 Q. And I'm going to test your eyesight here.
24 Do you see Daniel Sanchez, or Dan Dan, here in the
25 room?

1 A. Yes, I do.

2 Q. Where is he?

3 A. He's sitting over there in the blue suit.

4 MR. BECK: Let the record reflect he
5 pointed out the Defendant Daniel Sanchez.

6 THE COURT: The record will so reflect.

7 BY MR. BECK:

8 Q. Is Daniel Sanchez an SNM member?

9 A. Yes, he is.

10 Q. How do you know that?

11 A. We've had several conversations that have
12 to do with SNM activity. He's known to me as an SNM
13 Gang member. These are conversations that wouldn't
14 have took place with him to begin with if he wasn't
15 an SNM Gang member.

16 Q. And I think you said earlier you talked to
17 Carlos Herrera. Is Carlos Herrera an SNM member?

18 A. Yes, he is.

19 Q. Does he go by another name other than
20 Carlos Herrera?

21 A. Yes, he goes by the name of Lazy.

22 Q. Have you been locked up with Carlos
23 Herrera before?

24 A. Yes, I have.

25 Q. And do you know that Carlos Herrera is an

1 SNM Gang member?

2 A. Yes, I do.

3 Q. Have you heard of, within the SNM, the All
4 Stars?

5 A. Yes, I have.

6 Q. What are the All Stars?

7 A. The All Stars are a group of, I would say,
8 SNM Gang members that have been stabbed in the past
9 by other SNM Gang members. That's who they were.

10 Q. You said they'd been stabbed in the past.
11 Did you call hits on the SNM members who were trying
12 to start the All Stars?

13 A. I took part in a couple of hits against
14 members of the All Stars.

15 Q. Was Leroy Torrez one of the members trying
16 to start the SNM All Stars?

17 A. Yes, he was.

18 Q. Did you call a hit on Leroy Torrez?

19 A. Yes, I did.

20 Q. Did you call a hit on an SNM member named
21 Chaparro?

22 A. Yes, I did.

23 Q. Was he involved with the SNM All Stars?

24 A. Yes, he was.

25 Q. I want to talk to you about some other SNM

1 crimes that you've been involved with. In 1992,
2 1993, did you assault someone at the Southern New
3 Mexico Correctional Facility related to the SNM, if
4 you remember?

5 A. I did assault somebody at the Southern
6 facility.

7 Q. And how is that related to the SNM?

8 A. Only that we were SNM, and the one that
9 was with me at the time of assault was also SNM.

10 Q. And in the late '90s, early 2000s, did you
11 assault two Aryan Brotherhood members related to the
12 SNM?

13 A. What year was this, and what facility?

14 Q. Late '90s, early 2000s, did you assault
15 two Aryan Brotherhood members with Wino and Alex
16 Munoz and Funny Style?

17 A. Yes. Yes, sir. I took part on the
18 assault on these two Aryan Brotherhoods.

19 Q. And how is that related to the SNM?

20 A. Approximately -- again, I could be wrong
21 on the year. But a war had started with the Aryan
22 Brotherhood. It started with the Aryan Brotherhood
23 assaulting two SNM Gang members. So from that day
24 forward, there was a green light on every Aryan
25 Brotherhood that we came across.

1 Q. Is this the same way that there was a
2 green light on Los Carnales members at some point?

3 A. Yes, sir.

4 Q. What is the Aryan Brotherhood?

5 A. It's a white gang with -- yeah, it's a
6 white gang.

7 Q. At some point related to the SNM, did you
8 call a hit on Junior when the Main shut down?

9 A. Yes, I did.

10 Q. What happened?

11 A. Well, when I got to the South facility,
12 there were several brothers that weren't happy with
13 the way he was treating them. We asked him to step
14 down. He didn't want to step down, and we removed
15 him. When I got to the South, he was the one
16 holding the keys at the South facility. He didn't
17 want to step down, so we removed him, with approval
18 from Marty Barros.

19 Q. So you and other SNM members removed, by
20 assaulting, the SNM member who held the keys at the
21 South facility? Is that what you're saying?

22 A. Yes. I was not there at the time he got
23 assaulted, but I put it together, yes.

24 Q. You called that hit?

25 A. Yes, sir.

1 Q. And after the incident with Junior at the
2 South facility, were you involved in targeting two
3 Aryan Brotherhood members, including Pac Man?

4 A. Yes, I was.

5 Q. What happened?

6 A. These were Aryan Brotherhood members that
7 were at the Main facility when the initial war
8 started. When they closed down the Main, they were
9 all separated. And these are two individuals that
10 we came across at the South facility, so they were
11 assaulted.

12 Q. And were they assaulted because of this
13 rivalry with the SNM and Aryan Brotherhood?

14 A. Yes, they were.

15 Q. When you were sent to Hobbs around 1998,
16 did you call the hit of two other Aryan Brotherhood
17 members?

18 A. Yes, I did.

19 Q. What happened?

20 A. Again, these were two Aryan Brotherhood
21 members that were at the South. They were at the
22 Main facility when the war started with them, and
23 they were assaulted.

24 Q. Do you know how they were assaulted?

25 A. They were stabbed and beaten.

1 Q. In 2000, did you call a hit in BCDC?

2 A. Yes, I did.

3 Q. Is that the Bernalillo County Detention
4 Center?

5 A. Yes, it is.

6 Q. And what happened in 2000 in the
7 Bernalillo County Detention Center?

8 A. Matthew Cavalier, a former SNM Gang member
9 who was an informant, was killed.

10 Q. And how were you involved?

11 A. I put it together and I ordered it.

12 Q. And was Matthew Cavalier killed?

13 A. He had informed on an SNM murder that took
14 place in Central New Mexico Correctional Facility.
15 Papers had turned up on him, and so he was a known
16 SNM informant.

17 Q. You said "informed." Did he talk to law
18 enforcement?

19 A. Yes, he did an investigation.

20 Q. And by "papers," did you mean that there
21 had been actual paperwork in the prison showing that
22 he had cooperated with the investigation?

23 A. Yes, documents of his actual conversation
24 with authorities.

25 Q. And is that why you ordered his death?

1 A. Yes, that's why.

2 Q. And in connection with calling that
3 murder, is that why you pled guilty to conspiracy to
4 commit second-degree murder?

5 A. Yes.

6 Q. After that did you call a hit on Kelly
7 Mercer?

8 A. Yes, I did.

9 Q. What happened?

10 A. He was one of the ones that was -- he's a
11 fellow SNM Gang member. He was informing on --
12 assisting with the investigation on the Matthew
13 Cavalier case, and we placed a hit on him.

14 Q. Did you place this hit on him because you
15 expected him to testify at trial?

16 A. Yes, I did.

17 Q. Sometime later did you call a hit on Baby
18 Zack?

19 A. Yes, I did.

20 Q. What happened?

21 A. Well, this is Billy Garcia's nephew.
22 There was a division among the S, because of the
23 incident with Julian Romero and my wife. Julian
24 Romero was a Big Homie, so he had a following.
25 Basically, Baby Zack was sent to kill me at the

1 methadone clinic.

2 Q. Is that who you exchanged fire with at the
3 methadone clinic, when you pled guilty to, among
4 other things, being in possession of a firearm?

5 A. Yes.

6 Q. And did you call this hit on him after he
7 tried to kill you at the methadone clinic?

8 A. Yes, I did.

9 Q. Did you at any point order a hit on Darren
10 White?

11 A. No, I didn't.

12 Q. Who is Darren White?

13 A. Darren White is the elected Sheriff of
14 Bernalillo County.

15 Q. And how did you know of Darren White?

16 A. I knew of Darren White because he was very
17 political. And at one point he had tried to get a
18 law passed through the legislature claiming that New
19 Mexico needed to get tough on their violent
20 offenders, their repeat offenders. So he started
21 using my name and my picture to support his
22 three-strikes bill.

23 Q. And did he use your name because of your
24 conviction for involuntary manslaughter of your
25 cousin, for the murder of your wife, and for

1 ordering the murder of Matthew Cavalier?

2 A. Yes.

3 Q. And how did that strike you, that he was
4 using you as the poster child for this?

5 A. Well, they put my name out there and made
6 me look, like, bigger in the limelight. I didn't
7 mind. When you're in that lifestyle, you want
8 people to think that you can call a hit on a
9 sheriff.

10 Q. So at the time that this was happening,
11 did you actually like that he was using you as a
12 poster boy?

13 A. Yes.

14 MR. BECK: Your Honor, if we're going to
15 take a later lunch, might this be a good time for a
16 break?

17 THE COURT: All right. We'll be in recess
18 for about 15 minutes and we will take a later lunch,
19 like we have some days, all days this week.

20 (The jury left the courtroom.)

21 THE COURT: All right. So we'll be in
22 recess for about 15 minutes.

23 (The Court was in recess.)

24 MR. BECK: We should probably get -- there
25 is something I want to do outside the presence of

1 the jury.

2 THE COURT: Okay. Go ahead. We'll go on
3 the record.

4 MR. BECK: So a few days ago, when Mario
5 Rodriguez was testifying, we talked about
6 information that Mr. Archuleta may have --

7 MR. LOWRY: Your Honor, can we do this
8 outside of the presence of the witness?

9 MR. BECK: Well, it's going to include his
10 testimony.

11 THE COURT: Well, why don't y'all come up
12 here and we'll do it at the bench.

13 (The following proceedings were held at
14 the bench.)

15 MR. BECK: So yesterday -- not yesterday,
16 but when Mario Rodriguez was here -- he has
17 testimony about Pup's murder conviction, Mr. Baca's
18 murder conviction. We said that we thought it
19 better to wait until Mr. Archuleta testified to see
20 what he has to say about Mr. Baca's murder
21 conviction. I received an email that I forwarded to
22 counsel that day that says he has information about
23 it.

24 THE COURT: Archuleta does?

25 MR. BECK: Yes. From what I think, based

1 on conversations with his lawyer and our arguments,
2 I believe that it may not be firsthand information
3 that we get from him. But it is information that
4 connects up to the SNM. And so because the Court
5 for these preliminary determinations can rely on
6 hearsay, if indeed it is hearsay, it's important to
7 establish our record outside of the presence of the
8 jury as to how Mr. Baca's murder conviction is
9 related to the SNM.

10 THE COURT: Well, I guess we can hear it.
11 I'm not quite convinced on this sort of stuff, but
12 you know --

13 MR. LOWRY: Hear this outside the presence
14 of the jury.

15 THE COURT: Yeah, I'm not quite convinced
16 that I should be relying on inadmissible hearsay to
17 establish that this is an SNM hit. If he's just
18 getting that information from somebody else, I'm not
19 sure it gives me a lot of confidence that I ought to
20 be letting it in. But I'll hear what everybody has
21 to say.

22 MR. BECK: And I don't know exactly what
23 he's going to say. That's why I think it's better
24 to do it now.

25 MR. LOWRY: And before we have a

1 completion of a 104 hearing on that kind of
2 evidence, as Ms. Duncan represented, we've looked
3 through the entire transcript. We talked to the
4 original trial counsel, whose name is Candace
5 Stevens. She ended up being a life-long prosecutor.
6 We talked about this case. It was a death penalty
7 case when it happened. It was robustly litigated,
8 and the issue of gangs was never presented.

9 THE COURT: Let's let the Government make
10 its presentation, now that y'all haven't found
11 anything, but let's see what he has to say about it.
12 Go ahead.

13 (The following proceedings were held in
14 open court outside the presence of the jury.)

15 THE COURT: All right. Mr. Archuleta,
16 I'll remind you that you're still under oath. Mr.
17 Beck is going to ask you some questions, and you may
18 get some questions from other people about a
19 particular event.

20 Mr. Beck.

21 104 HEARING

22 DIRECT EXAMINATION

23 BY MR. BECK:

24 Q. Mr. Archuleta, are you familiar with Mr.
25 Baca's -- with the murder that Mr. Baca performed in

1 the Main facility at PNM?

2 A. Yes, I am.

3 Q. And about when did that happen?

4 A. About 1990, around there.

5 Q. And where were you when it happened?

6 A. I was in the Main facility cell block 5.

7 Q. And where was Mr. Baca?

8 A. He was being housed in cell block 4.

9 Q. And who did Mr. Baca murder?

10 A. He murdered Luis Velasquez.

11 Q. And what happened the day before that
12 murder?

13 A. There was a confrontation between Ray Baca
14 and Jesse Chavez.

15 Q. And who is Ray Baca and who is Jesse
16 Chavez?

17 A. These are known to me as big homies, the
18 SNM Gang members. They had a drug dispute with two
19 other individuals that were not SNM members by the
20 name of Luis Velasquez and Gerald Alvarado.

21 Q. And so at this time --

22 MR. LOWRY: Objection, Your Honor. Can we
23 get a foundation for the basis --

24 THE COURT: Well, since it's 104, I'll
25 let -- I'm curious about some of this, too.

1 BY MR. BECK:

2 Q. And how did you know those -- sorry, who
3 were the two SNM members?

4 A. Ray Baca and Jesse Chavez.

5 Q. And how did you know they were SNM Gang
6 members?

7 A. They were my big homies. They were two
8 individuals that, when I came to the facility and
9 became a carnal, a brother, they shook my hand, gave
10 me a hug and said, "Welcome to the family."

11 Q. And you said earlier -- just remind us,
12 when did you become an SNM member?

13 A. Approximately 1988, '89, somewhere around
14 there.

15 Q. So there was a drug dispute between Ray
16 Baca and Jesse Chavez, and who were the other two?

17 A. Luis Velasquez and Gerald Alvarado.

18 Q. Are they SNM members?

19 A. No, they weren't.

20 Q. And what happened with that drug dispute?

21 A. As a result of that, the confrontation and
22 the disputes, Gerald Alvarado pulled out a weapon
23 and stabbed Jesse Chavez.

24 Q. All right. And how did you know Anthony
25 Ray Baca at this time?

1 A. He was a Big Homie of mine in the SNM.

2 Q. So that was the day before. What happened
3 the next day after this stabbing and drug dispute?

4 A. It might have been the next day or a few
5 days, but Luis Velasquez was retaliated on and
6 killed.

7 Q. And who retaliated on Luis Velasquez?

8 A. Ray Baca and Robert Gutierrez.

9 Q. And why do you say "retaliated"?

10 A. Well, the day before, a brother was
11 stabbed. Luis Velasquez was with the person who did
12 the stabbing, so it was a form of retaliation. You
13 stab one of us and we kill you.

14 Q. Is that an SNM rule, that if an SNM member
15 gets stabbed by someone else, then the SNM
16 retaliates by either stabbing or killing that other
17 person?

18 A. Yes.

19 Q. And if they can't get to that other
20 person -- in this case, Alvarado; was Alvarado
21 segregated and locked up after --

22 A. Alvarado was segregated. Jesse Chavez was
23 taken to the hospital. Ray Baca made it back to his
24 unit. And Luis Velasquez made it back to his unit.

25 Q. And Ray Baca was with Jesse Chavez when he

1 was stabbed by Gerald Alvarado; right?

2 A. Yes, sir.

3 Q. And so it was the next day or sometime
4 immediately afterwards that Ray Baca then stabbed
5 and killed Luis Velasquez; right?

6 A. Yes, sir.

7 Q. And is that why you say it was SNM
8 retaliation?

9 A. Yes, sir; that and, if an incident takes
10 place and it involves SNM Gang members from start to
11 finish, it's SNM-related.

12 Q. Were you there when Mr. Baca stabbed Luis
13 Velasquez and killed him?

14 A. I wasn't present during the killing, but I
15 was in the facility, in cell block 5.

16 Q. And before this time, did you see Mr. Baca
17 at the Main facility?

18 A. Yes, I did.

19 Q. And after this time, when he stabbed and
20 killed Velasquez -- well, who did you learn about it
21 from first? I'll ask that question.

22 A. The murder?

23 Q. Right.

24 A. From a correctional officer during
25 lockdown.

1 Q. After the murder, were you in cell block
2 5? Were you locked down?

3 A. Yes, we were.

4 Q. At some point later did you see Mr. Baca?

5 A. Yes, I did.

6 Q. Where was that?

7 A. In Q pod at the North facility.

8 Q. And what is Q pod at the North facility?

9 A. It's a lockup facility. It's a pod, the Q
10 pod. It houses, like, 12 inmates.

11 Q. Are those 12 inmates on any special
12 conditions? That is a death row pod?

13 A. Yes, it was a death row pod.

14 Q. How close in time to when Mr. Velasquez
15 was stabbed and killed was it when you saw Mr. Baca
16 in Q pod?

17 A. It was during his trial, so I don't know
18 exactly. Maybe a year or two.

19 Q. And did you know Mr. Baca was being tried
20 for the murder of Luis Velasquez?

21 A. Yes, I did.

22 Q. How did you know that?

23 A. Because I was with him when he was going
24 to trial. I was housed with him in the unit, and it
25 was all over the news.

1 Q. Was Mr. Baca an SNM member after Jesse
2 Chavez was stabbed and while -- when he killed Luis
3 Velasquez?

4 A. Yes, he was an SNM member.

5 Q. And as an SNM member, does a murder help
6 your reputation with the SNM?

7 A. Yes, it does.

8 Q. Does it help even more if it's a murder
9 for the SNM or, as you said, a retaliation murder
10 for the SNM?

11 A. Yes, it does.

12 Q. And in your opinion, did this murder --
13 did it help make Mr. Baca your Big Homie or the
14 leader of the SNM?

15 A. He was my Big Homie before the murder, but
16 it increased his status after the murder.

17 Q. Did it increase his status with all the
18 SNM?

19 A. Yes, it did.

20 Q. Is that a reason that he was the leader of
21 the entire SNM?

22 A. Yes, it was.

23 Q. Where did this murder happen?

24 A. It happened in the main corridor at the
25 Main facility in front of cell block -- or

1 approximately in front of the canteen area.

2 Q. And in the main corridor of the Main
3 facility, is that right outside where the
4 corrections officers are sitting in the control
5 booth?

6 A. In that general area, yes.

7 Q. And given that the murder happened there
8 in the main corridor, is that significant in any way
9 to you and to the SNM?

10 A. Yes, it is.

11 Q. Why?

12 A. Because of the way he did it. He did it
13 in front of everybody. And --

14 Q. Did that add to his reputation or
15 credibility with the SNM?

16 A. I would say so, yes.

17 Q. Did that contribute to him being a leader
18 of the entire SNM?

19 A. It contributed, yes.

20 MR. BECK: That's all I've got, Your
21 Honor.

22 THE COURT: All right. Thank you, Mr.
23 Beck.

24 Mr. Lowry, do you have cross-examination?

25 Why don't you just go ahead and tell the

1 jury to go back and relax in the jury room.

2 Mr. Lowry.

3 MR. LOWRY: Thank you, Your Honor.

4 CROSS-EXAMINATION

5 BY MR. LOWRY:

6 Q. Good day, Mr. Archuleta.

7 A. Good day.

8 Q. So you weren't present when this happened,
9 either event, the events the day before or the event
10 that happened in the main corridor of the Old Main?

11 A. I was not present at the actual assault
12 and murder site; correct.

13 Q. And you weren't present the day before,
14 and I think -- let me get the names correctly
15 again -- it was Mr. Baca -- who were the four
16 individuals involved in the altercation?

17 A. Mr. Baca, Jesse Chavez, Gerald Alvarado,
18 and Luis Velasquez.

19 Q. And neither Alvarado or Luis Velasquez
20 were gang-affiliated at all?

21 A. No, sir.

22 Q. And do you know anything about Luis
23 Velasquez' criminal history?

24 A. That he was a killer.

25 Q. He was a cold-blooded killer, wasn't he?

1 A. He had a murder conviction, so that's why
2 I say that.

3 Q. All right. And he also was pretty
4 notorious at the Old Main for raping people.

5 A. I didn't -- I wasn't aware of that.

6 Q. Okay. So you didn't have any idea that
7 that --

8 A. Yeah, I -- I didn't have no idea.

9 Q. So you really didn't know much about Mr.
10 Velasquez?

11 A. Correct.

12 Q. And you didn't overhear any part of the
13 conversation that took place the day before between
14 Mr. Velasquez and Mr. Baca?

15 A. No, I didn't.

16 Q. And you weren't aware that other people in
17 the facility knew that Mr. Velasquez was trying to
18 kill Mr. Baca?

19 A. I was not aware of that.

20 Q. Were you aware that other people thought
21 that Mr. Velasquez had a knife in his pocket to kill
22 Mr. Baca at any time?

23 A. I have no knowledge of that. I was not
24 aware.

25 Q. Let me step back for a second. It doesn't

1 matter if you're gang-affiliated or if you're not.
2 But when you're in prison, it's a different cultural
3 environment, isn't it?

4 A. Yes, sir.

5 Q. Nobody can get punked out, can they?

6 A. No, sir.

7 Q. If you get punked, you're punked for
8 forever?

9 A. Yes, sir.

10 Q. And so it's imperative, no matter who you
11 are in the prison environment, to demonstrate you're
12 not going to be punked out?

13 A. Yes, sir.

14 Q. And if somebody is going to try to kill
15 you, you need to protect yourself?

16 A. I would say so, yes.

17 Q. By all means necessary?

18 A. Yes, sir.

19 Q. And if that's the case and you
20 legitimately think somebody is trying to kill you,
21 you're going to settle that score?

22 A. I would think so.

23 Q. Now, you said a lot about what you thought
24 about what transpired between the day before and
25 when Mr. Baca got into the altercation with Mr.

1 Velasquez.

2 A. Yes.

3 Q. But you don't have any firsthand knowledge
4 of what transpired in either event?

5 A. No, only what brothers translated to me
6 after the fact.

7 Q. Okay. And like any kind of rumor mill,
8 brothers can be wrong?

9 A. They can be wrong, but it became obvious
10 exactly what happened and why it happened over the
11 years.

12 Q. What do you mean, it became obvious?

13 A. Well, starting from the first incident,
14 where a brother got stabbed by another group of
15 people, and Luis Velasquez was with him, it was
16 automatic that he would be retaliated on, and that
17 Luis would be targeted.

18 Q. But you just agreed with me that nobody,
19 whether you're gang-affiliated or not, in the prison
20 wants to be punked out.

21 A. Right, but you can't deny that -- what led
22 up to that murder, which was the assault on Jesse
23 over drugs.

24 Q. But you don't know that that was over
25 drugs?

1 A. Yes, I do.

2 Q. How?

3 A. I got -- other brothers told me that were
4 there with him in cell block 4.

5 Q. Okay. So you're relying again on other
6 people's information to give you an opinion or an
7 impression about what happened?

8 A. Yes.

9 Q. And you don't know that for a fact? It's
10 gossip?

11 A. I wouldn't say it was gossip. I would say
12 it was the truth.

13 Q. You would say it's hearsay?

14 A. I wouldn't say it was hearsay.

15 Q. Well, you didn't see it firsthand?

16 A. You're right.

17 Q. You heard it from somebody else?

18 A. Yes.

19 Q. Who heard it from somebody else?

20 A. Not necessarily heard it from someone
21 else, but was there when the initial confrontation
22 took place, when the drug dispute was created.

23 Q. What kind of drugs are we talking about?

24 A. Heroin.

25 Q. How much?

1 A. A lot. An ounce, maybe. I don't know
2 exactly how much, but this individual had a lot of
3 heroin.

4 Q. Who is this individual?

5 A. Dennis Trujillo.

6 Q. And who is Dennis Trujillo?

7 A. Dennis Trujillo is a brother that was
8 housed with Ray Baca and Jesse Chavez in cell block
9 4.

10 Q. So are you telling us now that this was a
11 collection hit?

12 A. No, sir. I'm saying that when this all
13 started, Gerald Alvarado was at the grill of cell
14 block 4 trying to collect drugs from Dennis
15 Trujillo. He didn't come away with any drugs, and
16 that's what started the dispute. It was a
17 confrontation over that in the yard -- I mean, in
18 the corridor, and as a result, Gerald Alvarado
19 stabbed Jesse Chavez.

20 Q. Over not scoring drugs?

21 A. Over not -- basically not getting -- the
22 issue that he thought he had coming from Dennis
23 Trujillo. Dennis Trujillo was influenced, or he was
24 there with Ray Baca and all the rest of the
25 brothers. I mean -- okay.

1 Q. But you don't know if they were there just
2 to say, "We're going to take you out," and it might
3 not have been drug-related at all.

4 A. I know that it was drug-related.

5 Q. You believe it was drug-related.

6 A. Yes, I believe it was drug-related.

7 Q. You don't know that it was drug-related.
8 So you don't know anything about Mr. Velasquez's
9 background?

10 A. I know that he was from Colorado and he
11 had a murder conviction.

12 MR. LOWRY: May I have a moment, Your
13 Honor?

14 THE COURT: You may.

15 BY MR. LOWRY:

16 Q. Do you know who was with Mr. Baca --
17 pardon me. Do you know who was with Mr. Baca the
18 day Velasquez was murdered?

19 A. Yes. Robert Gutierrez.

20 Q. And he was acquitted, wasn't he?

21 A. Yes, he was.

22 Q. And you didn't speak to either of the
23 other individuals in the altercation the day before:
24 Mr. Alvarado or Mr. Chavez?

25 A. No.

1 Q. And you weren't there?

2 A. Right. I wasn't there.

3 MR. LOWRY: No further questions, Your
4 Honor.

5 THE COURT: All right. Thank you,
6 Mr. Lowry.

7 Does any other defendant have any
8 questions they wish to ask Mr. Archuleta on this
9 murder?

10 MR. VILLA: No, Your Honor.

11 THE COURT: All right. Mr. Beck.

12 REDIRECT EXAMINATION

13 BY MR. BECK:

14 Q. Mr. Archuleta, you mentioned Dennis
15 Trujillo as being the one with the drugs. Was he an
16 SNM member?

17 A. Yes, he was.

18 Q. And if this wasn't over drugs -- if, for
19 some reason, hypothetically, let's say, Gerald
20 Alvarado and Luis Velasquez stabbed Jesse Chavez
21 when he was with Ray Baca, if they stabbed two SNM
22 members -- would it still be automatic for the SNM
23 to retaliate under the SNM rules?

24 A. Yes, it would.

25 Q. You said you learned about the details of

1 this over the years. Approximately how many
2 times -- and often, over the years since I think you
3 said 1990, have you talked with other SNM members
4 about this murder?

5 A. It wasn't over the years. It was
6 immediately after the stabbing.

7 Q. And who did you talk with immediately
8 after the stabbing?

9 A. After the first incident, Luis
10 Velasquez -- I mean with -- yeah, Gerald Alvarado
11 stabbing Jesse Chavez, there was a high-ranking
12 member who lived with us in cell block 5 by the name
13 of Albert Chavez. Once lockdown was called, we were
14 in the cell block, locked down. We weren't locked
15 in our cell. As he entered the pod, he called a
16 meeting between the brothers, at which time he gave
17 us details that he was a witness to, that he
18 witnessed Gerald Alvarado stabbing Jesse Chavez, and
19 that it was on -- he mentioned that he thought Pup
20 managed to get back to the cell block, and that Luis
21 Velasquez had made it to his cell block. He made it
22 clear that he mentioned Luis Velasquez being with
23 Gerald Alvarado at the time. He said Gerald
24 Alvarado stabbed Jesse, and stated that it was on,
25 meaning that there was going to be some form of

1 retaliation on Luis Velasquez.

2 Q. And that was after the stabbing of Jesse
3 Chavez, but before Mr. Baca killed Mr. Velasquez?

4 A. Yes, yes.

5 MR. BECK: Nothing further, Your Honor.

6 THE COURT: All right. Did you have
7 something further, Mr. Lowry?

8 MR. LOWRY: No, Your Honor. But actually,
9 we'd like to call Special Agent Bryan Acee to the
10 stand.

11 THE COURT: What for?

12 MR. LOWRY: Well, Your Honor, Mr. Acee has
13 done a pretty extensive investigation into this
14 organization and the SNM. And he's interviewed
15 other witnesses that have flatly contradicted this
16 witness' testimony. And unfortunately, we don't
17 have them here today, but we do have Mr. Acee, and
18 he's interviewed them. And since this is a 104
19 hearing and we can entertain hearsay, we can
20 entertain Mr. Acee's recollection about what these
21 other people had to say about this very exact same
22 incident.

23 THE COURT: What's your thoughts, Mr.
24 Beck?

25 MR. BECK: I think that's fair. I think

1 that -- I think it may be better not to do this
2 right now just because of timing. I don't think --
3 based on what I heard, I don't intend to bring out
4 that information with Mr. Archuleta at this time,
5 because I think --

6 THE COURT: What Mr. Baca said about the
7 Velasquez murder?

8 MR. BECK: His admission about the
9 Velasquez murder. I guess I don't know exactly from
10 the witness what Mr. Baca said to him. I think he
11 talked about -- I think he talked about it while
12 they were in the cell together. Well, I guess,
13 yeah, I guess that's true. I might -- so I don't
14 know. But if he does know something, I would like
15 to bring that out on direct. So I guess we should
16 probably proceed with Mr. Acee.

17 THE COURT: Well, before we have Mr. Acee,
18 would it be best to hear what -- out of the presence
19 of the jury -- what Mr. Archuleta is going to say
20 that Mr. Baca said? And that way, you can then
21 decide whether you want to use it or not. If you're
22 not going to use it, this issue is becoming rather
23 moot.

24 MR. BECK: I don't think it's moot,
25 because we said we might call back Mr. Rodriguez.

1 But you're up there, and there is a good reason for
2 that, and I will take your advice and listen to what
3 Mr. Archuleta has to say right now.

4 THE COURT: All right. Let's hear that.
5 We'll maybe excuse him and put Mr. Acee on the
6 stand.

7 MR. LOWRY: May I stay here, Your Honor?

8 THE COURT: That's fine.

9 Go ahead, Mr. Beck.

10 BY MR. BECK:

11 Q. Mr. Archuleta, you said earlier that when
12 you were housed with Mr. Baca in Q pod, while he was
13 going to trial, you talked with him. Did he say
14 anything to you during that time about his murder?

15 A. No, he didn't.

16 MR. BECK: Okay. That's sort of what I
17 expected.

18 THE COURT: Okay.

19 MR. BECK: So that's why I don't think I
20 intend to get into anything in this with Mr.
21 Archuleta. I just wanted to lay that --

22 THE COURT: You just want him to provide
23 the backdrop for Mr. Montoya to testify?

24 MR. BECK: Right. So I think Mr. Baca is
25 entitled to present a witness for a 104 hearing, as

1 well, if he can contradict it. But we might use Mr.
2 Archuleta while he's here now.

3 THE COURT: Why don't I have the transport
4 officer take Mr. Archuleta and stand by the door.
5 Let me see how long this takes.

6 Do you want to drag a chair in there or
7 something like that? That would be fine. But let's
8 don't go too far off.

9 All right. Mr. Acee, if you'll come up.
10 Before you're seated -- well, I'll just remind you,
11 you're still under oath. I think you're subject to
12 re-call throughout, so I'll just remind you you're
13 still under oath.

14 All right. Mr. Lowry, if you wish to
15 conduct examination of Mr. Acee, you may do so at
16 this time.

17 Q. Yes, Your Honor, I do. Thank you. May it
18 please the Court?

19 THE COURT: Mr. Lowry.

20 BRYAN ACEE,
21 after having been previously duly sworn under
22 oath, was questioned, and continued testifying
23 as follows:

24 CROSS-EXAMINATION

25 BY MR. LOWRY:

1 Q. Good afternoon, Special Agent Acee.

2 A. Good afternoon.

3 Q. Agent Acee, you're familiar with a witness
4 who was just here this morning, Julian Romero?

5 A. Yes, sir.

6 Q. And I believe it was on March 31 of 2017
7 you picked up Mr. Romero and transported him, I
8 think, from Albuquerque to the Old Main facility and
9 did a tour of Old Main with him?

10 A. Yes.

11 Q. And you tape-recorded that?

12 A. I did.

13 Q. And during that whole -- throughout the
14 day, in the tape-recordings you discuss many things.
15 But do you recall discussing with him at the Old
16 Main, as you walk down the corridor, the murder that
17 happened where Mr. Velasquez lost his life?

18 A. Yes.

19 Q. Do you recall Mr. Romero telling you that
20 Velasquez had a knife in his pocket with Anthony
21 Baca's name on it?

22 A. That does sound familiar.

23 Q. Okay. And after you completed that
24 tour -- and he said it not once, but I think twice,
25 that, you know, this was a simmering feud between

1 these two guys.

2 A. That sounds familiar.

3 Q. And afterwards, you wrote a report based
4 on your visit?

5 A. Yes, sir.

6 Q. And would it be fair to say that in your
7 report -- and I'm happy to share this with you, but
8 may I read it to you?

9 A. Fine with me.

10 Q. You wrote in your report at Bates --
11 DeLeon Bates No. 24256 regarding this, it says, "The
12 murder Anthony Baca committed at the Old Main was
13 preemptive and based on an ongoing feud with another
14 inmate."

15 MR. LOWRY: May I approach, Your Honor?

16 THE COURT: You may.

17 BY MR. LOWRY:

18 Q. Did I read that correctly?

19 A. Yes, sir, you did.

20 Q. And through your interview with Julian
21 Romero, did you have any sense that that was wrong?

22 A. No.

23 MR. LOWRY: No further questions, Your
24 Honor.

25 THE COURT: All right. Thank you, Mr.

1 Lowry.

2 Mr. Beck.

3 REDIRECT EXAMINATION

4 BY MR. BECK:

5 Q. Special Agent Acee, is everything that
6 every cooperator has told you in this case true?

7 A. No.

8 Q. Do you know whether Julian Romero had
9 firsthand information about what he told you about
10 Pup's murder?

11 A. No.

12 Q. When Mr. Romero came in and testified
13 today, this morning, do you think he was completely
14 forthright and truthful with his testimony?

15 MR. LOWRY: Objection, Your Honor. He's
16 not a lie detector.

17 THE COURT: Well, I may not consider it,
18 because it's vouching. But let me hear where we're
19 going, then I'll make a decision.

20 A. He was not.

21 BY MR. BECK:

22 Q. Why did you think that? Before we get
23 there, what did you tell me after Mr. Romero
24 testified this morning when we were on break?

25 A. He resorted back to the convict code. He

1 didn't want to name any names. He was more
2 forgetful than normal.

3 Q. And was that when I asked about who shot
4 him in 2003?

5 A. That, and the video. He knows who was in
6 the pod and who hit him. We've talked about it
7 dozens of times at length.

8 Q. And when he talked about who was in the
9 pod this morning, he didn't name any names until I
10 asked him about specific people. Do you remember
11 that? Or he named Mr. Aronda, right? One person?

12 A. He only said Pete. He couldn't remember
13 his last name.

14 Q. And aside from Mr. Aronda this morning,
15 did he, as you recollect it -- and your recollection
16 may be different than mine -- did he name anyone
17 else here in the courtroom who participated with him
18 in criminal activity?

19 A. No, he did not.

20 MR. BECK: Nothing further, Your Honor.

21 THE COURT: All right. Thank you, Mr.
22 Beck.

23 Mr. Lowry?
24
25

1 RECROSS-EXAMINATION

2 BY MR. LOWRY:

3 Q. Agent Acee, notwithstanding the testimony
4 from this morning, you didn't have any reason to
5 believe that Mr. Romero wasn't forthcoming with you
6 on March 31, 2017, did you?

7 A. No.

8 Q. And if you thought he wasn't being
9 truthful and honest, would you present him as a
10 witness on behalf of the United States?

11 A. That's a tricky question.

12 Q. It's one that deserves a fair answer.

13 A. Well, I first would try to flesh out the
14 truth, and then I'd make all of that known to the
15 U.S. Attorney's Office.

16 Q. Right. I understand that. But my
17 question to you is that if you, as an agent of the
18 United States, thought that a witness was going to
19 be less than truthful or honest, would you allow
20 them to take the stand in a court of law?

21 A. I think I misunderstood your question.
22 No, I would not.

23 Q. And with regard to the truthfulness of the
24 witnesses that were heard from today, I believe --
25 were you at the last debrief with Gerald Archuleta

1 on January 22, 2018, when he was preparing for this
2 case?

3 A. No.

4 Q. But you did do an audio recorded interview
5 with Gerald Archuleta on May 8 of 2017?

6 A. Yes, sir.

7 Q. And during that audio recording of Mr.
8 Archuleta, you asked him point-blank who called him
9 after the Julian Romero assault at Southern on July
10 13, 2015?

11 A. Yes.

12 Q. Do you recall his answer in the May 8,
13 2017, interview?

14 A. No. And I'm sorry, I didn't know I was
15 going to be up here today, or I would have prepared
16 better.

17 Q. That's fair. Would you accept my
18 representation to you that in the audio recording
19 that we can all go back and check, he said that he
20 got a single call when he was talking to Chris
21 Garcia about getting Suboxone; and during that call,
22 Garcia mentioned the Romero assault.

23 A. That sounds familiar.

24 Q. He didn't get calls from anyone else? Not
25 Carlos Herrera, not Lupe Urquizo?

1 A. No, I remember asking about Lupe and I
2 don't think he recalled that.

3 Q. That's correct. You're absolutely right.
4 You gave him a point-blank question, if Lupe Urquizo
5 had called him. And he said no, he had not.

6 A. No, and I don't believe I ever asked him
7 if Carlos Herrera called him.

8 Q. And you did not.

9 MR. LOWRY: May I approach, Your Honor?

10 THE COURT: You may.

11 BY MR. LOWRY:

12 Q. Nonetheless, in his trial preparation
13 debrief with the United States -- and I don't
14 believe you were there for that meeting -- but it
15 says that he met with the Assistant U.S. Attorney
16 Matthew Beck at the courthouse to prepare, and that
17 during that conversation, he told Mr. Beck that he'd
18 received three calls from Carlos Herrera, Lupe
19 Urquizo, and Christopher Garcia.

20 A. That's what it says, sir. And you're
21 correct, this is not my report, and I wasn't there.

22 Q. Fair enough. But -- and my point is:
23 Even when he took the stand today, the story changed
24 yet again, and he said he'd only heard from one
25 person. He went back to your May 8 version, which

1 is: He only heard from Chris Garcia.

2 A. I did hear him say that today.

3 Q. And that's the only name he mentioned with
4 regard to this call.

5 A. Today in court, yes.

6 Q. And my point is: When you're talking
7 about credibility assessments with individuals, it's
8 a difficult proposition on a good day.

9 A. Some individuals more than others.

10 Q. So if you're inclined to disbelieve Julian
11 Romero for reverting to the convict code, are you
12 similarly inclined to disbelieve Gerald Archuleta
13 for reverting to the SNM code?

14 A. I may not understand the question.

15 Q. Okay. Let me simplify it. Mr. Archuleta
16 came in, took the stand, took the oath, swore to
17 tell the truth. And he stood up and canvassed the
18 room and couldn't recognize Mr. Baca.

19 A. Well, I looked at Mr. Baca, and he had his
20 head down. It was hard for me to find him. So I
21 don't know how to answer that one.

22 Q. You don't think that was resorting to the
23 convict code?

24 A. No. I think Archuleta has trouble seeing,
25 too. He has a couple pairs of glasses. I think

1 these are just reading ones. He may not have
2 brought his Coke bottle -- his other glasses.

3 Q. That's your speculation.

4 A. It is, yeah.

5 Q. You don't know what his eye prescription
6 is.

7 A. No. I know he has bad eyesight. I've
8 witnessed that. But I don't know what his
9 prescription level is.

10 Q. Short-range or long-range?

11 A. I don't know. We'd have to hang out some
12 more.

13 MR. LOWRY: No further questions, Your
14 Honor.

15 THE COURT: Thank you, Mr. Lowry.
16 Mr. Beck?

17 MR. BECK: Briefly.

18 REDIRECT EXAMINATION

19 BY MR. BECK:

20 Q. Special Agent Acee, who wrote this report
21 that you just read from?

22 A. Nancy Stemo.

23 Q. Was there a recording associated with
24 this?

25 A. I don't believe so.

1 Q. Do you know of a recording that was
2 associated with this?

3 A. No.

4 Q. Mr. Archuleta's testimony today -- was
5 that consistent with how he answered in your
6 interview before, about the call with Chris Garcia?

7 A. Yes.

8 Q. And again, you weren't there on January
9 22, 2018, when Nancy Stemo took this report, were
10 you?

11 A. No, sir.

12 MR. BECK: All right. Nothing further,
13 Your Honor.

14 THE COURT: All right. Thank you, Mr.
15 Beck.

16 Anybody else have any questions of Mr.
17 Acee on this issue?

18 All right. Mr. Acee, you may step down.
19 Thank you for your testimony.

20 Here's my problem, Mr. Beck, is if you
21 don't have any admissible -- I know I can consider
22 inadmissible evidence in a 104. But once we go back
23 in front of the jury, you're wanting to put a
24 statement by Mr. Baca that he committed this murder.
25 There is nothing in that statement that says it's an

1 SNM murder. It just is a statement that he did the
2 murder, if I remember the statement that you put.
3 And so therefore, there is not going to be anything
4 in front of the jury that links it to an SNM murder.
5 There is now in front of me hearsay evidence, and I
6 can consider that. The problem is: Once we're back
7 in front of the jury, we're throwing out a murder
8 and I don't know how the jury decides it is or is
9 not an SNM murder, because we're not giving them any
10 admissible evidence.

11 MR. BECK: I think -- I'm sorry.

12 THE COURT: It's sort of -- I mean, I
13 guess they could implicitly think that the Court
14 think it's an SNM murder and therefore it's
15 relevant. But it troubles me a little bit we're not
16 giving the tools to the jury to make that
17 determination.

18 MR. BECK: I expect that the tools for the
19 jury will come from Mr. Rodriguez' testimony about
20 Mr. Baca's admission. The other tools the jury has
21 is a wealth of information, not only from Mr.
22 Archuleta, but from the litany of cooperators who
23 have testified about the SNM retaliating against
24 other gang members when they're hit over drugs,
25 because someone is stabbed, and you just heard Mr.

1 Archuleta. It doesn't have to be over drugs. It
2 can be just because two people are stabbed.

3 There are a number of bad acts that come
4 in for every defendant in this case and in the
5 second trial that the jury doesn't have a lot of
6 information about why they are SNM hits, beside just
7 that they committed this crime while they were in
8 SNM or while they were being recruited for SNM.

9 So that's not a concern of mine, and it's
10 not as if it's a collateral estoppel issue. The
11 Court is not going to instruct that the jury must
12 find or must presume that Mr. Baca committed this
13 murder at all. Rather, it's just evidence of the
14 enterprise. It's evidence of the racketeering
15 activity that the jury is to consider along with any
16 other evidence, and if they don't see that the
17 United States proved beyond a reasonable doubt that
18 it was connected, then they're not going to use it
19 for enterprise activity.

20 THE COURT: But I don't see any admissible
21 evidence that helps them make that determination one
22 way or another. The only way they would make it is
23 to listen to this evidence, which they can't do, Mr.
24 Archuleta's.

25 MR. BECK: They've heard the evidence of

1 the way in which SNM retaliates; that if someone
2 from SNM is stabbed, another person from SNM
3 retaliates in favor of that. They can -- you know,
4 we can get out, from Mr. Archuleta, that he knows
5 these two people to be SNM members and the other two
6 people to not be SNM members. We can get that
7 information out so they have the tools to infer that
8 when Mr. Baca then later murders this person, it was
9 an SNM hit, because he was with another SNM member
10 who was stabbed by someone who is not another SNM
11 member, or -- and he doesn't even need to know that
12 he was stabbed; just that they were put in lockdown
13 right afterwards, and someone was put in
14 segregation.

15 So there is enough information for them to
16 link it up with the inferences that they're allowed
17 to make, to find that it's racketeering activity.

18 THE COURT: Let me give it some thought.
19 I'm not persuaded yet it's coming in. But let me
20 look a little bit. Somebody may have written on
21 this, or commented on it, and stuff. But I'm not
22 quite convinced that if there is not admissible
23 evidence -- and I'm not sure there is. I think what
24 the jury is going to do is, they're going to say,
25 "Well, the judge let this murder in. Therefore, it

1 must be SNM-related," and not go through the task,
2 because they haven't had to do that for anything
3 else. It's just been spoon-fed to them. And I'm
4 not sure they're going to separate this one out and
5 say, "Well, we don't know why" -- and question
6 whether it should be -- they should be making the
7 determination that it's SNM-related.

8 MR. BECK: Sure.

9 THE COURT: Let me give it some thought.

10 MR. BECK: Sure. I understand the Court's
11 position. I think that's a fair call to make.

12 It's come to my attention, based on what
13 defense counsel said, and then a discussion with Ms.
14 Armijo, that they are not in receipt of the Saturday
15 302 on Mr. Archuleta and, I'm guessing, other people
16 that we met with on Saturday. I thought that was
17 disclosed. It must not be yet, so I'd just ask to
18 disclose it. Apparently, it was just disclosed. So
19 that came to my attention. I'm raising it now.
20 We're at fault for not disclosing that.

21 Mr. Archuleta and I met on Saturday.
22 That's where we discussed this incident and his
23 Suboxone use while cooperating. So I guess the
24 defendants now have that. When Mr. Lowry came up
25 and asked about the last debrief on January 22, it

1 tipped in my mind that wasn't the last debrief. And
2 so I want to put that on the record so that they can
3 have that information and raise with the Court
4 whatever they need to.

5 THE COURT: Okay. Mr. Lowry.

6 MS. FOX-YOUNG: Your Honor, I think Mr.
7 Beck said that there were several meetings on
8 Saturday, and I don't believe we have any other 302s
9 from the other meetings. So I'd ask that the
10 Government produce those forthwith.

11 THE COURT: Is there just one 302 from
12 Saturday?

13 MR. BECK: I don't think so. I think
14 there are a number.

15 MS. ARMIJO: I think there is just --
16 before I sent that other one, I sent another one
17 they should have, as well. Did you receive that,
18 Ms. Jacks?

19 MS. JACKS: I received that.

20 MS. ARMIJO: There was one regarding
21 Frederico Munoz and one regarding Gerald Archuleta.
22 And I believe there will be one regarding Mario
23 Montoya. He's not expected to testify till next
24 week. And the formal discovery is going out today.
25 And they'll be sent directly to you as well as to

1 Mr. Aoki.

2 THE COURT: All right. Mr. Lowry?

3 MR. LOWRY: Your Honor, I appreciate the
4 Court's insight into this issue. I don't want to
5 belabor the point, but it bears repeating that this
6 1989 murder was a capital case. And if this was
7 gang-related, that would have been an aggravating
8 factor for the jury to consider in the capital case.
9 And despite all the resources of the State of New
10 Mexico -- again, Ms. Duncan and I looked at that
11 trial transcript, we've talked to the trial attorney
12 who handled it. We talked to the appellate
13 attorney. There was no gang affiliation related to
14 that prosecution.

15 It boggles one's mind that 20-some-odd
16 years after the fact, they want to make it a gang
17 case, when, in the heat of the moment, when they
18 were trying to take Mr. Baca's life from him, gangs
19 had nothing do with it. And I don't think that the
20 collective memory of either the witnesses or the
21 community is going to get better over time, Your
22 Honor.

23 Thank you.

24 THE COURT: Thank you, Mr. Lowry.

25 Ms. Bhalla.

1 MS. BHALLA: Just briefly, Your Honor. I
2 think as we move forward with Mr. Archuleta and we
3 start introducing the transcripts that -- just that
4 I think it's just going to be a difficult process
5 for everybody. And that we try -- you know, if we
6 need to approach ahead of the exhibits coming in, I
7 would appreciate that. And I'm sorry, but it's
8 just -- there is all -- you know, there is lots of
9 different issues to look at, Your Honor. And one of
10 those is whether or not some of the stuff they're
11 admitting in this particular case has anything to do
12 with SNM activity.

13 And so I'd just ask that we take it as it
14 comes, I guess, Your Honor.

15 THE COURT: All right. Well, how long has
16 Mr. Herrera had the transcripts that you're going to
17 be using?

18 MR. BECK: I believe we provided those
19 transcripts on Thursday -- I guess that would have
20 been Thursday, February 1st? January 31? Thursday,
21 February 1st, I think the transcripts were provided.
22 And I believe the DVDs were provided Friday,
23 February 2.

24 THE COURT: I do recall that when they
25 came in, you know, I was sort of -- I think I now

1 have a process for me to get through the material.
2 I didn't at the time they came in. But I did sit
3 down and begin to look at them. And I didn't have a
4 great deal of problem with what you're saying about
5 Mr. Herrera. It seemed to me that it was very
6 low-level. It seems very straightforward, what the
7 Government had done.

8 MS. BHALLA: And I think the issue is,
9 Your Honor, that they're pulling out pieces of the
10 transcript to use. And you know, we weren't sure
11 which pieces of the transcript they were going to
12 use at the time. And I agree with you that I think,
13 after speaking to Mr. Beck, I think that some of it
14 there's not going to be an issue with it. But on
15 some of it, I do see an issue with. And so, for
16 example, I think that they're trying to introduce
17 evidence of an assault my client was involved in,
18 but there is no indication that that assault had
19 anything to do with the SNM. And so I'm going to
20 have a 403 objection to that, the way it's being
21 presented, coming in. And I just want the chance to
22 make the objections before it comes out. It doesn't
23 have to be lengthy.

24 THE COURT: All right. Fair enough.

25 MS. BHALLA: Thank you, Your Honor.

1 THE COURT: All right. Let's get Mr.
2 Archuleta in here, and then we'll bring the jury in.

3 MS. JACKS: Your Honor, should Mr. Sanchez
4 go ahead and put on the record his objections to
5 these tape recordings of Mr. Herrera being admitted,
6 so we don't have to object to each one as it comes
7 in, in front of the jury?

8 THE COURT: Well, again, these have been
9 out for a long time.

10 MS. JACKS: I understand. But these
11 aren't admissible against Mr. Sanchez. My
12 understanding is, these are being admitted as
13 admissions of Mr. Herrera.

14 THE COURT: Okay. And what is -- what are
15 you then objecting to?

16 MS. JACKS: So our objection is to all of
17 the recordings, based on the Fifth and Sixth
18 Amendments, as we previously argued, and the fact
19 that it's hearsay that, along with other evidence,
20 could be used to corroborate the informants that are
21 being offered against Mr. Sanchez.

22 THE COURT: All right. Okay.

23 MS. JACKS: So given that I've made those
24 objections, we won't be renewing them, we don't need
25 to renew them each time.

1 THE COURT: I understand what you're
2 saying. And I don't think you need to renew it.

3 MS. JACKS: Thank you.

4 MR. LOWRY: And Mr. Baca would join that.

5 THE COURT: I understand the Defendants
6 are joining that.

7 MR. VILLA: Mr. Perez, as well, just for
8 the record.

9 THE COURT: Okay, Mr. Villa. So noted.

10 MR. BECK: I think there will be evidence
11 of racketeering activity, enterprise activity within
12 these that may be admissible against all of them.
13 But we can take them as they come and listen to
14 what's said and raise those at the time.

15 At this time, Your Honor, I'll move to
16 admit Government's Exhibits 206, 208, 210, 212, 214,
17 and 216. That's six recordings that Mr. Archuleta
18 made of Mr. Herrera while they were incarcerated
19 together in 2016.

20 THE COURT: All right. Any other
21 objections that need to be noted? Otherwise, I'll
22 admit them into evidence.

23 Ms. Jacks?

24 MS. JACKS: We've previously noted our
25 objection, and I would simply note that I think it's

1 going to be unduly confusing for the jury if these
2 are admitted for some -- or parts of these
3 conversations are somehow then admitted against
4 everybody, and I would ask --

5 THE COURT: No, I'm going to give an
6 instruction as to all of it. These are statements
7 by Mr. Herrera. And so you'll get a limiting
8 instruction. I think that's the easiest way to deal
9 with it. And I think that's what we had planned on.

10 MR. BECK: I think that's fair.

11 THE COURT: I think we could go line by
12 line, and some of it might be state of mind. But I
13 think we planned on these tapes to be rather
14 clear-cut.

15 Do you agree with that, Mr. Beck?

16 MR. BECK: Yes, Your Honor. I think
17 that's fair.

18 THE COURT: So you'll get the instruction
19 as to all the tapes that are being made of Mr.
20 Herrera.

21 MS. JACKS: Thank you very much.

22 MR. VILLA: Your Honor, in response to the
23 Court's inquiry, we have no other objection, other
24 than what's been previously raised.

25 THE COURT: Okay. Then with that, then I

1 will admit Government's Exhibits 206, 208, 210, 212,
2 214, and 216.

3 (Government Exhibits 206, 208, 210, 212,
4 214 and 216 admitted.)

5 THE COURT: All rise.

6 (The jury entered the courtroom.)

7 THE COURT: All right. Everyone be
8 seated. Don't worry about lunch. We're not going
9 to penalize you and start the clock now. We've been
10 working in here, and we're going to have to give
11 Ms. Bean a break. So we're going to go to 1:15 and
12 then we'll take a lunch break. I appreciate your
13 patience. As I told you in the preliminary,
14 sometimes we have to have a conference with the
15 attorneys and the parties, that actually saves time
16 in the end. And I think this may be a good example
17 of it. So I appreciate your patience. We'll take a
18 break at 1:15.

19 GERALD ARCHULETA,
20 after having been previously duly sworn under
21 oath, was questioned, and continued testifying
22 as follows:

23 THE COURT: All right. Mr. Archuleta, I
24 remind you that you're still under oath.

25 THE WITNESS: Yes.

1 THE COURT: Mr. Beck, if you wish to
2 continue your direct examination of Mr. Archuleta,
3 you may do so at this time.

4 MR. BECK: Thank you, Your Honor.

5 CONTINUED DIRECT EXAMINATION

6 BY MR. BECK:

7 Q. Mr. Archuleta, were you arrested in this
8 federal case in December of 2015?

9 A. Yes, I was.

10 Q. And where were you incarcerated, say, from
11 approximately February to April of 2016?

12 A. I was being housed at the North facility.
13 I believe in Unit 2-A, maybe.

14 Q. I think you already told the members of
15 the jury, but at that time did you agree to go into
16 the prison and make recordings of other inmates?

17 A. Yes, I did.

18 Q. Did you do that?

19 A. Yes, I did.

20 Q. During that period of time, were you
21 housed next to Carlos Herrera?

22 A. Yes, I was.

23 Q. Did you record conversations with Mr.
24 Herrera?

25 A. Yes, I did.

1 MR. BECK: At this time, Your Honor, may I
2 publish and play for the jury portions of what's
3 been admitted as Exhibit 212?

4 THE COURT: You may. Before you do, these
5 are going to be recordings that Mr. Archuleta made
6 of Mr. Herrera talking, so you can use these in your
7 consideration of the charges against Mr. Herrera.
8 But you can't use them against anyone else. And so
9 if you're taking notes, there's going to be a number
10 of these played. You might want to really note
11 these. These can only be considered as to Mr.
12 Herrera, and not the other three gentlemen.

13 All right, Mr. Beck.

14 BY MR. BECK:

15 Q. And Mr. Archuleta, if you look on the
16 screen in front of you as it plays, it should show
17 you the transcript.

18 (Tape played.)

19 A. I'm having a hard time hearing. Can you
20 start the recording again? I wasn't able to hear it
21 for the first --

22 Q. We'll go ahead and start the recording
23 Government's Exhibit 212, one more time.

24 (Tape played.)

25 Q. Whose voice were we just listening to,

1 Mr. Archuleta?

2 A. We were listening to the voice of Carlos
3 Herrera.

4 Q. And Mr. Archuleta, do you wear glasses?
5 Do you have trouble with your eyesight?

6 A. These are reading glasses, yeah.

7 Q. Do you generally have trouble with your
8 eyesight, though?

9 A. Reading, yes.

10 Q. Do you see Mr. Herrera here in the
11 courtroom?

12 A. Yes, I do.

13 Q. And where is he?

14 A. He's over there with the black or
15 dark-blue suit.

16 MR. BECK: Let the record reflect he
17 acknowledged the defendant, Mr. Herrera.

18 THE COURT: The record will so reflect.
19 BY MR. BECK:

20 Q. I earlier asked you about Mr. Baca. How
21 long has it been since you've been housed with Mr.
22 Baca?

23 A. It's been a long time. Since the murder,
24 since we were in Q pod. So that's -- what year did
25 the murder take place?

1 Q. Just -- I mean, generally, how long? We
2 don't need to know a year.

3 A. It's been over 15 years.

4 Q. Over 15 years since --

5 A. That I was housed with Ray Baca.

6 Q. All right. I'm going to start the
7 recording again -- or not start again; sorry. Start
8 it from here.

9 (Tape played.)

10 Q. And who is that who said, "Well, she did
11 good and shit, I know"? Who is that talking?

12 A. That's Carlos Herrera.

13 Q. Who else is talking on this recording?

14 A. Myself.

15 Q. And are those the two voices we're
16 hearing, you and Mr. Herrera?

17 A. Yes, they are.

18 Q. Please press play.

19 (Tape played.)

20 Q. In that conversation with Mr. Herrera,
21 what are you talking about?

22 A. We're talking about -- we're initially
23 talking about the raid on his mom. He mentioned
24 they were looking for subs and things having to do
25 with sneaking subs into the facility through the

1 postal service.

2 Q. And when you say "subs" --

3 A. Suboxone.

4 Q. And when he said, "I had 20 strips there,"
5 what was he saying?

6 A. He was saying that they didn't find
7 nothing, but that he had 20 strips in the house that
8 got raided; that they didn't find them.

9 Q. Was he talking about bringing them into
10 the jail facility?

11 A. Yes.

12 Q. And just now, right before I paused it,
13 when he said, I think in here, it's highlighted at
14 the beginning of that line 12 --

15 A. Nothing is highlighted on this.

16 Q. Okay. Where he says, "They don't even
17 have a jale," what's a jale?

18 A. That's a job.

19 (Tape played.)

20 Q. When he said earlier, "The STG in here,"
21 what's the STG?

22 A. It's the Security Threat Group unit from
23 Corrections.

24 Q. Are they now known as STIU?

25 A. Yes, sir.

1 Q. And who is Shadow, Little Shadow?

2 A. Shadow is Billy Cordova, an SNM member.

3 (Tape played.)

4 Q. Who is he referring to as Garduno?

5 A. Excuse me?

6 Q. Who is Garduno?

7 A. Vincent Garduno. He's an SNM Gang member.

8 Q. When he is saying, "Somebody, too, like
9 Garduno," and then "We're matching your name in
10 writing labrada." What's a labrada?

11 A. Labrada means out in the open, writing the
12 letter, knowing that it will be monitored, maybe
13 sending it through inmate postal service. So it's,
14 like, out in the open to be monitored, labrada.

15 Q. While you're incarcerated, is your mail
16 that goes out from you monitored?

17 A. Yes, it is.

18 Q. And who monitors it?

19 A. STIU.

20 Q. And so what is he talking about here, "Out
21 in the open, writing a labrada"? What does he mean?

22 A. He's talking about they're writing letters
23 knowing that STIU is monitoring our mail.

24 Q. As an SNM member, did you try to write
25 letters written in code so that you could pass

1 messages without STIU knowing?

2 A. I've tried.

3 (Tape played.)

4 Q. Is he saying there, talking about a
5 recording?

6 A. He's saying that for them to have any
7 evidence, that they would need a recording of the
8 individuals talking about the actual case.

9 Q. And what case he talking about?

10 A. The murder of Javier Molina.

11 Q. Is that this case?

12 A. Yes, it is.

13 (Tape played.)

14 Q. When he says there, "Yes, we could attack,
15 too, because them vatos are on meds," what does that
16 mean to you?

17 A. He's saying the people doing the
18 cooperating -- there can be an issue with the psych
19 meds that they are taking. So he's saying that
20 defense could attack them because they were on psych
21 meds.

22 (Tape played.)

23 Q. And what is he talking about there, that
24 they've been here since 2007?

25 MS. BHALLA: I'm going to object. I think

1 if they want to play the transcripts, that's fine.
2 But having the witness try to interpret the
3 conversation for the jury -- I think that invades
4 the province of the jury, Your Honor.

5 THE COURT: I think it's permissible if
6 they want to highlight particular portions.
7 Overruled.

8 BY MR. BECK:

9 Q. What is he talking there, that they've
10 been here since 2007?

11 A. He's talking about the feds, that they've
12 been investigating the SNM since 2007.

13 Q. I'm going to now play for you portions of
14 Government's Exhibit 216.

15 (Tape played.)

16 Q. So you're talking about getting a line to
17 Mr. Herrera. What are you doing?

18 A. We're fishing. It's called fishing. The
19 COs don't pass nothing among inmates, so I'll make a
20 line out of thread, coming from my boxers maybe,
21 with an anchor at the end. I'll throw it out on the
22 tier, and he will do the same, fishing my line. And
23 we will tie messages on it or whatever we want to
24 get passed, and --

25 Q. Have you fished kites, or messages, to

1 other SNM members?

2 A. Yes, I have.

3 Q. Have you fished drugs to other SNM members
4 in the past?

5 A. Yes, I have.

6 Q. But to be fair, what are you fishing here?

7 A. I'm sure we're fishing a shot of coffee.

8 Q. And coffee -- that's not a code word for
9 anything? That's just coffee?

10 A. Yeah, that's just coffee.

11 (Tape played.)

12 Q. And we should point out, in this
13 transcript, CHS -- is that you?

14 A. Yes, it is.

15 Q. Does that refer to a confidential human
16 source?

17 A. Yes, it does.

18 Q. Is that what you were doing when you were
19 recording other people in the prison?

20 A. Yes, I was.

21 Q. And who is Jesse?

22 A. Jesse was the neighbor to my right, and
23 Carlos was the neighbor to my left.

24 Q. And Herrera -- is that when Mr. Carlos
25 Herrera is speaking?

1 A. Yes.

2 Q. And what is a helicopter?

3 A. Carlos was attempting to get, I believe, a
4 shot of coffee from my neighbor Jesse. I was
5 helping him to get it. Jesse is my neighbor to the
6 right. He's a lot closer to me than Lazy is. He's,
7 like, two feet away. So a helicopter is kind of,
8 like, slang. He would throw the line in and yank
9 it, and it would go right into my cell, without me
10 having to fish it. That's a helicopter.

11 Q. Again, this is -- though you're not doing
12 it here, this is a method you've used in the past to
13 transfer contraband to other SNM inmates?

14 A. Contraband and other stuff.

15 Q. At this time, was Mr. Herrera indicted in
16 this case?

17 A. I don't believe so.

18 Q. And I'm going to take you to another
19 portion of Exhibit 216.

20 (Tape played.)

21 Q. Mr. Archuleta, again, that is Mr. Herrera
22 and you, when it says "CHS"?

23 A. Yes, it is.

24 Q. What are you talking about here, about the
25 tapout program?

1 A. It's a program that's created that -- in
2 order to get there, you have to -- it's for people
3 that renounce gang affiliation. It's called tapout
4 program. That's what he was talking about.

5 Q. All right. And where it says, a couple
6 lines, "They have to give information or something,"
7 what are you asking about there?

8 A. I guess part of entering this program, you
9 have to give them information, such as when you came
10 in, who brought you in, maybe how you made your
11 bones. You have to give information.

12 Q. And with the SNM rules, are you allowed to
13 give information to the corrections officers like
14 that?

15 A. No, we aren't.

16 Q. What happens if you give corrections
17 officers information like that?

18 A. You are green-lighted and targeted to be
19 killed.

20 Q. And in the end of that transcript where he
21 says, "Let's all all fucking renounce. Let's just
22 all go to the program and do a desmadre, ay," what
23 is a desmadre?

24 A. A desmadre is to, like, make a mess, to go
25 over there to the program acting like if you're

1 renouncing, legitimately renouncing, and do a
2 desmadre, meaning stab, assault legitimate
3 renouncers.

4 MS. BHALLA: Objection, Your Honor. I
5 think that's clearly invading the province of the
6 jury in particular.

7 THE COURT: Overruled.

8 BY MR. BECK:

9 Q. All right. I think we've got one more
10 excerpt we're going to play for you here from
11 Exhibit 216.

12 (Tape played.)

13 Q. What are you talking about in this
14 conversation with Mr. Herrera?

15 A. I asked if a certain individual was with
16 Julian Romero on the tier.

17 Q. And who was that individual, if you
18 remember?

19 A. I believe it was Juanito, Juan Mendez, an
20 SNM Gang member, if I'm correct.

21 (Tape played.)

22 Q. Do you see where he says, "They fucking
23 hit him, ay, that's what he got, fucking punk,
24 pobrecito," who is he talking about?

25 A. He's talking about Julian Romero being

1 assaulted.

2 Q. When he said, "They thought he was all
3 firme," what does that mean to you?

4 A. "Firme" is, like, all good. "Hita,"
5 everything was fine; he wasn't expecting an assault.

6 Q. Does that mean he thought the hit that
7 you'd put out on him had been quashed or gone away?

8 A. Yes, that's what that means.

9 (Tape played.)

10 Q. Who are Shiman and Playboy?

11 A. Shiman and Playboy are SNM Gang members.
12 These are the individuals who shot Julian Romero
13 when he was shot, when Julian was shot.

14 Q. That's when you ordered Playboy to shoot
15 Julian Romero, he and Shiman shot Julian Romero. Is
16 that what you're saying?

17 A. That's correct.

18 (Tape played.)

19 Q. And who are you talking about here about
20 29 or 30?

21 A. We're talking about the individual that
22 assaulted Julian Romero in the Southern correctional
23 facility.

24 Q. I think earlier on in your testimony this
25 morning, you and I said that Mr. Herrera -- or you

1 said that Mr. Herrera told you about the Julian
2 Romero incident. Is this where he told you, when
3 you were in prison together?

4 A. Yes.

5 (Tape played.)

6 Q. What's a paisa?

7 A. That's a Mexican. A paisa is a Mexican
8 national.

9 (Tape played.)

10 Q. When you asked Mr. Herrera, how did he
11 know that Julian wasn't worth a fuck, what does it
12 mean, that Julian wasn't worth a fuck?

13 A. That he was green-lighted. How did the
14 guy that assaulted Julian -- how did he know that
15 there was a green light on him.

16 Q. When Mr. Herrera said to you, "Well, he
17 just knew that, didn't need to know nothing, just
18 needs to know how to handle that, you know what I
19 mean; they're all truchas, all that," what does that
20 mean to you?

21 A. That means that he was directed just to
22 take care of that without knowing why. He was a
23 member of the SNM, and when asked to do something,
24 you do it. You follow orders. But he didn't know
25 the reason why he was assaulting Julian, or the

1 reason why the green light was placed on him.

2 Q. And does that happen with younger members?
3 They're just told to assault without being told why?

4 A. Well, there's been cases where you can
5 explain why he's being -- why the green light was
6 placed on an individual that he's about to target.
7 But in this case, maybe there was a trust issue, and
8 they didn't share the details with him.

9 (Tape played.)

10 Q. There is a couple of things in there. Mr.
11 Herrera says, "I didn't need to rap to a bunch of
12 fucking weirdos over there at PNM." What does "rap
13 to" mean?

14 A. That means talk to, communicate with.

15 Q. What is he staying there, that he wouldn't
16 rap to some people, but he would to others?

17 A. That he'd only rap to those that they were
18 in on the assault on Julian Romero, but he didn't
19 rap to others about it.

20 Q. And where he says, "There was just a few
21 that was willing to rollo," what does "willing to
22 rollo" mean?

23 A. Willing to talk about it. He's talking
24 about there were others on the side that were in the
25 unit that were willing to talk, even talk about the

1 Julian issue. They wanted no part of it.

2 (Tape played.)

3 Q. So what does that mean: Getting
4 comfortable, everyone's getting high? What is he
5 telling you that they were doing in the pod at that
6 time?

7 A. He's saying that they were getting high in
8 the pod. He's saying that Julian was comfortable.
9 Again, he didn't suspect anything. It was like the
10 hit didn't exist.

11 (Tape played.)

12 Q. What does "chafa" mean, where he says he's
13 chafa?

14 A. That means he's no good, he's chafa.

15 Q. Does that mean that he's no good with the
16 SNM Gang?

17 A. Yes. He's no good with the SNM Gang.

18 Q. And there he says something, and then he
19 says "squina." What is that?

20 A. Squina means help from other brothers in
21 the form of just helping them. That's getting
22 squina.

23 Q. I'm going to play you excerpts from
24 Exhibit 206.

25 (Tape played.)

1 MS. BHALLA: Can we approach with this
2 particular exhibit?

3 THE COURT: You may.

4 (The following proceedings were held at
5 the bench.)

6 MS. BHALLA: There is no indication this
7 had anything to do with SNM. The guards pulled him
8 out of the shower in front of everybody, according
9 to the transcripts. I don't think it has anything
10 to do with the enterprise, anything to do with SNM.
11 And I think at this point it's hearsay. This was
12 the particular one I was referring to before we got
13 started this afternoon.

14 MR. BECK: I do think we've heard from
15 several SNM members that they felt they were being
16 disrespected by a CO. And my understanding is they
17 pulled him out naked, so he felt disrespected, so he
18 wanted to fire back at the CO at that point.

19 MS. BHALLA: I think one of the things
20 that was required by the bad acts, they link it up
21 with specific facts to tie this in to SNM. And the
22 fact that he was disrespected just isn't enough.

23 THE COURT: I'm going to overrule the
24 objection. I think there is a lot of testimony
25 about the relationship between the COs and the SNM

1 members. So I'm going to allow this.

2 Are you going to get into further here as
3 to -- with this witness to lay more foundation?

4 MR. BECK: Yes.

5 MS. BHALLA: Just for the record, I don't
6 think that it's appropriate to have them
7 interpreting what is considered to be an SNM matter.
8 He wasn't in custody.

9 THE COURT: You can certainly ask the
10 question: What did you understand him to be saying?
11 That way, he's not testifying directly to what he
12 said, but what he meant. But put it in terms of:
13 What did you understand him to be saying? What did
14 you understand the conversation to be about? I
15 think that's appropriate.

16 MR. CASTELLANO: Your Honor, just a
17 housekeeping matter. Now that the recordings are
18 coming out, can the Court instruct the jury about
19 the recordings and the fact that the transcripts
20 will aid the jury, but let them know they won't be
21 getting the transcripts in deliberations? That way
22 they may --

23 THE COURT: The answer is yes. I wasn't
24 ignoring you.

25 MR. CASTELLANO: That's why I waited. I

1 know you were getting something.

2 THE COURT: I can either pull out the one
3 I've written for the final instructions, or I can
4 give this one. But I'll give it now before I send
5 them to lunch.

6 MR. CASTELLANO: Thank you, Judge. That
7 way, they'll know to take better notes and know
8 there won't be a transcript. Thank you, sir.

9 (The following proceedings were held in
10 open court.)

11 THE COURT: I know I'm standing between
12 you and lunch, but let me give you an instruction.
13 It will apply throughout all the sort of recordings
14 you're going to hear, and so I'll probably give it
15 as often as the parties want me to give it to you,
16 but I'll give it to you now.

17 During the trial, you have heard and you
18 will be hearing some sound recordings of certain
19 conversations. These conversations were legally
20 recorded. They are a proper form of evidence and
21 may be considered by you as you would any other
22 evidence.

23 You were also given transcripts of those
24 recorded conversations. Keep in mind that the
25 transcripts are not evidence. They were given to

1 you only as a guide to help you follow what is being
2 said. The recordings themselves are the evidence.
3 If you noticed any differences between what you
4 heard on the recordings and what you read in the
5 transcripts, you must rely on what you heard, not
6 what you read. If you could not hear or understand
7 certain parts of the recordings, you must ignore the
8 transcript as far as those parts are concerned.

9 All right. Let's go ahead and take our
10 lunch break, and we'll see you back in about an
11 hour. All rise.

12 (The jury left the courtroom.)

13 THE COURT: During your lunch break, you
14 might want to particularly, Mr. Beck, take a look at
15 United States v. Bonds; that's in Barry Bonds. It's
16 the BALCO case from the Second Circuit, 608 F.3d
17 495 -- I said Second Circuit. Ninth Circuit, 2010.
18 It deals with conditional relevance. And I believe
19 that's what this is, because this murder that --
20 trying to get the evidence in against Mr. Baca is
21 only relevant if it's SNM-related.

22 I think my instincts were right, so I
23 think this case basically says that if the judge is
24 determining a preliminary question of conditional
25 relevance, you've got to revert back, not to 104,

1 but the evidentiary rules of admissibility apply.

2 So in BALCO, the only way they had a link
3 between BALCO and Bonds was inadmissible hearsay.
4 And they said that wasn't enough for the judge,
5 then, to let it in. So take a look at it.

6 Also, if you want to look at what
7 Salzburg's treatment of it is, it's in Section
8 104.02, pages 4 to 5. So that will give you a
9 synopsis. Or you can look at the case. So based
10 upon that, I'd be inclined to keep it out. But
11 that's what I'm thinking right at the moment.

12 All right. See you after lunch.

13 (Court was in recess.)

14 THE COURT: All right. We'll go on the
15 record. Is there anything --

16 THE CLERK: We're still waiting on a
17 couple of defendants. Mr. Baca and Mr. Perez are
18 not here yet.

19 MR. VILLA: I don't have a client.

20 THE COURT: I looked over and saw
21 attorneys. I didn't check with clients. I need to
22 wait for Mr. Baca.

23 All right. Are we ready to bring Mr.
24 Archuleta in? Anything we need to discuss before we
25 bring him in?

1 MR. LOWRY: Well, Your Honor, after all of
2 that, Mr. Archuleta dove right into referencing the
3 1989 murder, I believe. And if we could just
4 admonish him not to discuss that. I didn't object
5 at the time; I didn't want to draw undue attention
6 to the jury. I think they've heard about so many
7 murders, it kind of went under the radar.

8 THE COURT: I don't disagree with this.

9 MR. LOWRY: It would be nice for the Court
10 to admonish him, before the jury comes in, that
11 that's off the table.

12 THE COURT: I will do that. Anything
13 else?

14 Mr. Beck, anything from the Government
15 side?

16 MR. BECK: No, Your Honor.

17 THE COURT: Any other defendants have
18 anything to discuss?

19 All right. Well, go on the record.

20 Mr. Archuleta, I have not decided, but
21 right at the moment I'm keeping out evidence of any
22 murder, alleged murder by Mr. Baca of Mr. Velasquez.
23 So I kept it out of the trial.

24 THE WITNESS: All right.

25 THE COURT: So you have to answer your

1 questions truthfully. I always want you to tell the
2 truth. But if at any point -- don't volunteer
3 anything about that murder. Okay? Because right
4 now, I'm keeping it out of the trial. So don't
5 volunteer it. If you are asked a question and the
6 only way you can truthfully answer the question is
7 to talk about that murder, then tell us that you
8 can't answer that question and obey the Court's
9 instruction, and we'll figure out where to go from
10 there. But don't volunteer this or get into it
11 unless you're specifically asked.

12 THE WITNESS: Okay.

13 THE COURT: All rise.

14 (The jury entered the courtroom.)

15 THE COURT: All right. Mr. Archuleta,
16 I'll remind you that you're still under oath.

17 THE WITNESS: Yes, sir.

18 THE COURT: Mr. Beck, if you wish to
19 continue your direct examination of Mr. Archuleta,
20 you may do so at this time.

21 BY MR. BECK:

22 Q. Mr. Archuleta, did SNM members assault
23 corrections officers?

24 A. Yes, they did.

25 Q. And if a corrections officer disrespected

1 the SNM or treated them poorly, was it a rule that
2 the SNM had to respond by assaulting that
3 corrections officer?

4 A. I wouldn't say it was necessarily a rule.
5 But some took it upon themselves to assault COs when
6 they had disputes, which wasn't a violation of any
7 sort of rule, I mean, if you did assault them.

8 Q. Okay. I'm going to play for you -- let's
9 do clip 2 -- I'm going to play for you a portion of
10 Exhibit 206.

11 (Tape played.)

12 Q. What was Mr. Herrera talking about in that
13 portion of Exhibit 206?

14 A. He was talking about what was required of
15 SNM members that wanted to go to this drop-out unit,
16 saying that they had to comply, which meant they had
17 to give them information. He had also mentioned
18 that Little Rabbit, who was a former member of the
19 SNM -- his name is -- I'm not sure of his name --
20 his last name is Lopez, I believe, but I could be
21 wrong. He's talking about how this guy legitimately
22 tapped out, joined this program. And in doing so,
23 he turned in a knife, which is a fierro. He's
24 saying -- he went on to say that it was discussed
25 amongst the brothers there that were with him; they

1 should just all act like they want to renounce, with
2 the purpose of getting sent to the drop-out unit and
3 assaulting legitimate drop-out SNM members, which
4 means when he says doing a desmadre.

5 Q. Now, I'm going to play you a portion of
6 what's been admitted as Government's Exhibit 210.

7 (Tape played.)

8 Q. What is Mr. Herrera talking to you about
9 in this part of conversation?

10 A. The first part of the conversation --
11 well, I asked him -- or he asked me if I remember
12 it. I may have asked him; whatever is said on the
13 recording. There was an incident in the county
14 jail, BCDC, when he attempted to assault an inmate
15 that was in the shower by hitting him with a broom
16 stick. He was unsuccessful in that incident.

17 The second part of the conversation, he
18 went on to say that he finally got Kevin Blanco,
19 which was -- he was not an SNM member, but always
20 seemed to find himself disrespecting SNM members,
21 just by his disrespectful conversation towards SNM.

22 Q. And as part of the SNM, if someone
23 disrespects an SNM member, what does the SNM do?

24 A. They do their best to assault the
25 individual if the chance presents itself.

1 Q. And when he says they dropped the
2 shackles, "and it was on, man," what does that mean
3 to you?

4 A. Well, he was shackled in his room. For
5 some reason they took off the shackles -- or -- this
6 is a lockup facility where you're constantly
7 shackled. He was in belly irons, like I am here.
8 He had the broom in his room. When he said he
9 dropped the shackles, that means he lowered them
10 below his waist, to where he had free access with
11 his arms and his hands. And he assaulted or
12 attempted to assault; or in that case, that was the
13 second incident, he assaulted Kevin Blanco in the
14 van. Is that what you're talking about?

15 Q. Yes, thank you.

16 (Tape played.)

17 Q. What does a PC move mean?

18 A. A PC move means that -- some people can
19 say it means that he did something in front of a
20 cop.

21 Q. I'm going to play you another clip from
22 what's been admitted as Government's Exhibit 210.

23 (Tape played.)

24 Q. What are you talking about in this
25 conversation?

1 A. In the beginning of the conversation, he's
2 talking about the last time he did a piece of
3 Suboxone, it was tiny; that he had trouble injecting
4 it, so he just snorted it. Then he goes on to
5 explain that he used to have a syringe.

6 Q. What does "pluma" mean?

7 A. A pluma is a homemade syringe that you use
8 to inject drugs.

9 Q. And what is he saying happened to it?

10 A. He's saying that he lent it to whoever.
11 He lent it out, and since he lended it out, he had
12 to clean it. He had to disinfect it once he got it
13 back, which is why he put it in the hot pot. He's
14 saying he put it in the hot pot to disinfect it with
15 hot water. He forgot it was in there, poured out
16 the water in the toilet, flushed the toilet, and
17 lost his pluma, lost his syringe.

18 Q. Where you said, "Nah, all I got to do is
19 get the needle part," what do you understand that to
20 mean?

21 A. That meant all he needed was the needle
22 portion of any syringe in order to start the process
23 of making a homemade syringe.

24 (Tape played.)

25 Q. What do you understand Mr. Herrera to mean

1 when he says, "I'm surprised. I thought they were
2 gonna come over here and something was going to be
3 firme"?

4 A. He thought that he was going to go over
5 there to that unit, and there was going to be lots
6 of drugs, or drugs period. He thought it was going
7 to be good firme. And there were no drugs.

8 Q. I'm now going to play portions of what's
9 been admitted as Government's Exhibit 208.

10 (Tape played.)

11 Q. In this conversation, are you and Mr.
12 Herrera talking about bringing in drugs through
13 contact visits?

14 A. We're talking about -- yes, we are.

15 Q. And he said he would take off the little
16 screw to the screen and put a straw through. That's
17 all that fits, is a straw; you can't do nothing like
18 that. Did you understand him to mean that someone
19 was taking off the screen during a contact visit and
20 bringing in drugs through that straw through the
21 screen?

22 A. Yes. He explained that that's how drugs
23 were being brought into the facility.

24 (Tape played.)

25 Q. And right there where he says, "My ruca

1 bought the set," what is a ruca?

2 A. A ruca is his old lady, his wife, or his
3 girlfriend bought the set; means she's the one that
4 purchased the set of Allen wrenches which fit the
5 security screws.

6 (Tape played.)

7 Q. In that portion of the conversation, what
8 is Mr. Herrera saying that he did down in Southern,
9 in Cruces, four years ago?

10 A. He's talking about in the South facility
11 visiting room, that he took a piece of metal, a
12 sharpened piece of metal, to make a hole in the
13 window so that Mariano, which is either his brother
14 or his father-in-law, could pass him drugs.

15 Q. Did he get drugs that way?

16 A. According to the conversation there, he
17 did.

18 Q. I'm going to play you another portion of
19 Exhibit 208.

20 (Tape played.)

21 Q. So in this conversation, Mr. Herrera says,
22 "That fucker was getting squina like fuck." What
23 does that mean?

24 A. That he was getting a lot of help from the
25 free world, from the streets, obtaining drugs.

1 Q. All right.

2 (Tape played.)

3 Q. When Mr. Herrera is talking about pictures
4 and bringing in pictures, what do you understand him
5 to mean?

6 A. We were talking about a method that's used
7 to obtain drugs into the facility, to sneak them in
8 through the mail. They're hidden inside a picture.

9 (Tape played.)

10 Q. In that portion of the conversation, what
11 do you understand Mr. Herrera to be talking about?

12 A. He mentioned that Shorty had sold him some
13 drugs, that they were waiting on these drugs through
14 the mail. When it arrived in the mail room, it
15 got -- it was detected, because there was nothing
16 written on the pieces of paper that were sent in in
17 the envelope. They were just circles or scribbles.
18 So they looked closer at the piece of paper, and it
19 got busted. And he got written up as a result. And
20 that's what he's saying.

21 Q. When SNM members get drugs into the
22 facility, do they then sell those drugs?

23 A. They either sell them, if there's enough,
24 or they do them themselves. You can't get a lot of
25 drugs through the mail or through pictures. So you

1 would usually -- I mean, if he chose to, he could
2 sell a portion of it. But mainly he did it for
3 himself. I mean, he used the drugs. Now, if you
4 got a large portion, which you can get more drugs by
5 removing the screws and passing multiple straws
6 filled with contraband, you can get more drugs that
7 way, and you would have some to sell.

8 (Tape played.)

9 Q. What is Mr. Herrera -- what do you
10 understand Mr. Herrera to be talking about in that
11 portion of the conversation?

12 A. At the beginning of the conversation, he
13 was saying that there was a lot of drugs in Las
14 Cruces.

15 On the second portion of the question, he
16 referred to the viejo when he was talking about
17 Julian, that he was getting help from my wife, and
18 that he was getting it through the mail on the seal.
19 He would place it on the seal, he's describing, and
20 it was placed on the seal where you lick it, and it
21 was working.

22 (Tape played.)

23 Q. And in this part of the conversation, what
24 do you understand Mr. Herrera to be talking about?

25 A. At the beginning of the conversation he is

1 talking about a different method that he's never
2 tried, but a different method introducing contraband
3 into the facility was -- he explained it as using a
4 humidifier. I didn't really -- I'd never seen it
5 done. He stated that he's never used that method.
6 But basically, he's talking about a different method
7 that people are using.

8 Q. What about when you say, "That ruca gives
9 him a lot of squina, no," and he says, "Well, yeah,
10 he was. He was getting at least one a week, one
11 every two weeks."

12 A. We ran into -- I'm talking about Julian
13 and my ex-wife. I asked him, "So that ruca," my
14 wife, "is giving him squina, huh?"

15 And he says, "Yes, he gets two subs a week
16 from her."

17 Q. When you asked him about the county jail,
18 and he says, "Yeah, you know, it was fucked up,"
19 what are you talking about? What happened in the
20 county jail?

21 A. Say that again. When he says what?

22 Q. When you asked him, "Well, yeah, I used to
23 do the same in the county jail for us, us,
24 remember?"

25 And he says, "Yeah, you know," what are

1 you talking about, "in the county jail"?

2 A. I was talking about that my wife used to
3 do the same thing for me. I brought it to the
4 attention -- he was there with me in the county
5 jail, and I'm saying she used to do that for us,
6 too; remember?

7 Q. Did you give Mr. Herrera a part of the
8 drugs that your wife brought to you when you were in
9 the county jail?

10 A. Yes, I did.

11 (Tape played.)

12 Q. In that portion of the conversation where
13 Mr. Herrera says, "We were getting them in Cruces.
14 Come over here, and I was all happy, handle
15 business, fucking per visit," what do you understand
16 Mr. Herrera to be talking about in that portion of
17 the conversation?

18 A. The first part of what you mentioned,
19 while he was in Cruces, he was getting a lot of
20 drugs. He was getting a lot of Suboxone.

21 The second part was?

22 Q. The second part, where he says, "I was all
23 happy, handle business, fucking per visit."

24 A. He was all happy to handle business, which
25 meant he obtained the drugs. Once he obtained the

1 drugs, he was happy to handle business, which meant
2 either selling them or doing them. But mostly
3 selling them, handle business.

4 (Tape played.)

5 Q. In that portion of the conversation where
6 he says, "I'll schedule one. Don't even mention
7 nothing and I'll do it, nah, be out like fuck, I'll
8 do it, nah," what do you understand him to be
9 telling you in that portion of the conversation?

10 A. He's saying he'll schedule a visit to
11 attempt to smuggle in drugs, and for me not to say
12 anything to anybody else.

13 (Tape played.)

14 Q. In that portion of the conversation when
15 he's talking about the photos and the envelope, is
16 that, again, talking about methods of smuggling
17 Suboxone into Cruces?

18 A. Yes, he is.

19 Q. I'm going to play you portions from what's
20 been admitted as Government's Exhibit 214.

21 Did you and Mr. Herrera discuss the Javier
22 Molina murder?

23 A. Yes, we did.

24 Q. Did he tell you what his position was in
25 the pod at Southern New Mexico at the time of the

1 Molina murder?

2 A. He stated, yes, he did.

3 Q. What did you understand his position to be
4 here at Southern New Mexico Correctional Facility?

5 A. Someone that was in touch with Pup, and so
6 he had a position of authority.

7 Q. So did you understand him to be someone
8 who had an authority position in the pod?

9 A. Yes, I did.

10 Q. Was that a leader of the pod?

11 A. Yes, that's a leader of the pod.

12 Q. All right. I'm going to play, as I said,
13 a portion of what's been admitted as Government's
14 Exhibit 214.

15 (Tape played.)

16 Q. In this portion of the conversation, who
17 do you understand Mr. Herrera to be referring to as
18 Spider?

19 A. He's an SNM Gang member, a brother.

20 Q. Do you know his real name, Spider?

21 A. David Calbert.

22 Q. And who do you understand him to be
23 referring to as Critter?

24 A. Critter is an individual by the name of --
25 I don't know his name.

1 Q. Is he an SNM member?

2 A. Yes, he's an SNM member.

3 Q. All right. And what are you and Mr.
4 Herrera talking about in this portion of the
5 conversation?

6 A. He's talking about people that he's
7 concerned about who he thinks would give information
8 on the Molina murder. He states that as far as
9 David Calbert thinks, he's down, they won't get any
10 information from him.

11 As far as -- we went on to Critter and
12 Chris Garcia.

13 Q. And are Critter and Chris Garcia SNM
14 members?

15 A. Yes, they are SNM members.

16 (Tape played.)

17 Q. At this time, are you talking about --
18 well, let me ask this question: What does "chafa"
19 mean?

20 A. "Chafa" means no good, chafa.

21 Q. And what does it mean to say that someone
22 is chafa or no good within the SNM?

23 A. It refers to certain people, that he's no
24 good in the SNM standings; he's chafa.

25 Q. And what is -- I think you said that means

1 chafa, that they're working with the juras. What
2 does that mean?

3 A. As far as Benjamin Clark, he's a member of
4 the SNM. Alonzo, which is -- I don't know his last
5 name, but these are brothers that were on the
6 indictment. And he's saying that since they were
7 already at the tapout unit, that they're no good;
8 that he was concerned about them saying whatever
9 they knew.

10 Q. And the tapout unit -- is that the unit
11 that we heard, just a few minutes ago, you and he
12 referring to when people drop out and give up their
13 fierros, or information?

14 A. Yes.

15 Q. So he also mentioned Arturo, aside from
16 Alonzo and Benjamin. Who is Arturo?

17 A. Arturo is another SNM member.

18 (Tape played.)

19 Q. In that portion of the conversation, who
20 do you understand Mr. Herrera to be referring to as
21 Baby Rob?

22 A. He's talking about Robert Martinez,
23 another SNM Gang member.

24 Q. And under the SNM rules, what's required
25 of an SNM member in good standing if an SNM member

1 encounters someone who either went to the dropout
2 unit or who is cooperating with law enforcement?

3 A. He's expected to assault him.

4 Q. I'm going to play for you another portion
5 of Exhibit 214.

6 (Tape played.)

7 Q. What are you and Mr. Herrera talking about
8 in this conversation?

9 A. At the end of the conversation he was
10 talking about Red, which is someone that was charged
11 with the killing of Mr. Molina.

12 Q. Are you talking about the Javier Molina
13 murder?

14 A. Yes, I am.

15 Q. And when you say he's talking about Red,
16 do you understand him to be talking about Red at the
17 top here, where he says "because he was always
18 kicking it with that vato, and that was his friend"?

19 A. He was saying that he was a friend of
20 Javier Molina; that he was always with him. They
21 were close. They were always secretive when they
22 got to the yard, when they went in the yard.

23 Q. And where he says, "That's the reason why
24 that fucker went," what do you understand him to
25 mean by that?

1 A. That's why -- that's a reason why they
2 used him to kill Javier Molina, to show his loyalty.

3 Q. And by "they," do you mean the SNM?

4 A. Yes, the SNM.

5 Q. All right. And then where Mr. Herrera
6 says, "Yeah, JR went because that didn't m another
7 fucking killing two birds with one stone," who do
8 you understand Mr. Herrera to be referring to as JR?

9 A. JR is another individual that was charged
10 with the Molina murder. His name is Jerry Montoya.

11 Q. And what do you understand him to mean
12 when he says, "Yeah, because there's paperwork
13 supposedly on JR"?

14 A. He's indicating that there was paperwork
15 on JR.

16 (Tape played.)

17 MR. BECK: Your Honor, may I approach?

18 THE COURT: You may.

19 MR BECK: May I approach the witness, Your
20 Honor?

21 THE COURT: You may.

22 BY MR. BECK:

23 Q. Mr. Archuleta, I'm handing you what's been
24 marked for identification purposes as Government's
25 Exhibits 651, 652, and 653. Please tell me if you

1 know who is depicted in those photographs.

2 A. That's Pup, a long time ago when he was a
3 lot younger.

4 Q. And are these fair and accurate
5 representations of Mr. Anthony Ray Baca a long time
6 ago when he was a lot younger?

7 A. Yes. That's the Pup I know.

8 MR. BECK: Your Honor, the United States
9 moves into admission Government's Exhibits 651, 652
10 and 653.

11 THE COURT: Any objection?

12 MR. VILLA: No, Your Honor.

13 MS. BHALLA: No, Your Honor.

14 MR. LOWRY: May we approach?

15 THE COURT: You may.

16 (The following proceedings were held at
17 the bench.)

18 MR. LOWRY: Your Honor, I'm just not clear
19 that he's put a foundation, that he's aware of the
20 timeframe that these were taken, or was incarcerated
21 with him during that period of time.

22 THE COURT: I once went out to Acoma
23 Pueblo and took the long trip up to the top. And
24 the lady told all the stories about the church up
25 there, on and on and on, about these stories. And I

1 asked her, I said, "When did all these occur?"

2 She looked at me and said, "Long ago."

3 I guess this is kind of where you are.

4 MR. LOWRY: Exactly.

5 MS. DUNCAN: I guess the other objection
6 we have is why we need three different photos of Mr.
7 Baca. These are mugshots from over 20 years ago.

8 THE COURT: Let me look at them.

9 MR. BECK: What I'm trying to do -- we got
10 from Mr. Archuleta that he hasn't been incarcerated
11 with Mr. Baca for some substantial period of time.
12 And I intend to show him these pictures, and then
13 show him the pictures that have been admitted, and
14 see if he can then identify --

15 THE COURT: Well, since he was unable to
16 identify him in court, I think we may not have an
17 exact date in these pictures.

18 MR. LOWRY: Those are the dates.

19 MS. DUNCAN: Your Honor, if it's only for
20 that purpose, we would stipulate to Mr. Baca's
21 identity.

22 THE COURT: I'll let the Government put on
23 its case the way they want to. I think these are
24 admissible. He's given enough of a foundation.

25 (The following proceedings were held in

1 open court.)

2 THE COURT: All right. Government's
3 Exhibits 651, 652, and 653 will be admitted into
4 evidence.

5 (Government Exhibits 651, 652, and 653
6 admitted.)

7 BY MR. BECK:

8 Q. Mr. Archuleta, I'm going to show you
9 what's now been admitted as Government's Exhibit
10 651. Who is in this photograph?

11 A. Pup, Ray Baca, when he was a lot younger.

12 Q. And I know you're looking that way, but
13 when you talk, Mr. Archuleta, if you'll speak into
14 the microphone so we can hear you.

15 A. That's Pup, Ray Baca, when he was a lot
16 younger.

17 Q. And Government's Exhibit 652. Who is in
18 this photograph?

19 A. That's Pup, Ray Baca, when he was a lot
20 younger.

21 Q. All right. Now, Government's Exhibit 653.
22 Who is in that photograph?

23 A. That's Pup, Ray Baca, when he was a lot
24 younger.

25 Q. I'm going to show you what's been admitted

1 as Government's Exhibit 495. Who is depicted in
2 this photograph?

3 A. That's Carlos Herrera -- no, it's Ray
4 Baca, without his mustache.

5 Q. Government's Exhibit 496. Is that again
6 Mr. Baca?

7 A. Yes, that's Ray Baca.

8 Q. And is this the same Ray Baca that you've
9 been telling us about during your testimony this
10 afternoon, who was a leader, and I think you said
11 your Big Homie in the SNM?

12 A. Yes, sir.

13 Q. And now that you've seen those
14 photographs, do you see this Mr. Baca, who you've
15 been talking to the jury about throughout your
16 testimony today -- do you see him in the courtroom?

17 A. Yes, I do.

18 Q. And where is he?

19 A. He's right in front of me with the blue
20 suit, and maybe it's a white shirt. I was unable to
21 see him before, because that lady was sitting right
22 in front of him. With the shaved head, that's Ray
23 Baca.

24 MR. BECK: Let the record reflect Mr.
25 Archuleta identified the Defendant Anthony Ray Baca.

1 THE COURT: The record will so reflect.

2 MR. BECK: May I have a moment, Your
3 Honor?

4 THE COURT: You may.

5 MR. BECK: Pass the witness.

6 THE COURT: Mr. Lowry, do you have
7 cross-examination of Mr. Archuleta?

8 MR. LOWRY: May it please the Court.

9 THE COURT: Mr. Lowry.

10 CROSS-EXAMINATION

11 BY MR. LOWRY:

12 Q. Good afternoon, Mr. Archuleta.

13 A. Good afternoon.

14 Q. Mr. Archuleta, you've never removed a
15 green light for anyone, have you?

16 A. No.

17 Q. And that includes Julian Romero.

18 A. That's correct.

19 Q. Now, I want to talk to you a little bit
20 about Julian Romero. You testified on direct that
21 he had slept with your wife and that's why you put a
22 green light on him?

23 A. Correct.

24 Q. But he actually developed a long-term
25 relationship with your wife, didn't he?

1 A. Yes, he did.

2 Q. They still live together today?

3 A. That's correct.

4 Q. And you've never canceled the green light
5 put on him in 2001?

6 A. No, I haven't.

7 Q. Now, it's fair to say, is it not, that the
8 dispute between you and Mr. Romero over your -- I
9 don't know, did you refer to Lilly as your former
10 wife?

11 A. Yes. Yes, sir.

12 Q. That caused a deep division within the SNM
13 Gang?

14 A. Yes, it did.

15 Q. And that contributed to a lot of bad
16 politics within the gang?

17 A. Sides formed: Those on Julian's side and
18 those on my side.

19 Q. And those were pretty deep divisions, were
20 they not?

21 A. Yes, they were.

22 Q. And in fact, it rose to the level where
23 people on one side wanted to kill people on the
24 other side because of their allegiance to either you
25 or Mr. Romero?

1 A. Repeat the question.

2 Q. Sure. It led to the point where people
3 tried to kill each other because of their allegiance
4 to either you or Mr. Romero?

5 A. Yes.

6 Q. And in fact, you tasked or ordered
7 Frederico Munoz to go kill Julian just over this,
8 over your former wife?

9 A. Yes, that's correct.

10 Q. But that was just the beginning of the
11 feud, if you will?

12 A. Yes, that's correct.

13 Q. Because -- let me back up for a second.
14 We kind of didn't really touch upon this on direct,
15 but I want to explore it a little bit. You didn't
16 find out about Mr. Romero's relationship to your
17 wife until you were charged with the murder of
18 Matthew Cavalier; isn't that right?

19 A. There was no relationship with Julian
20 Romero prior to the Cavalier death. And the
21 relationship happened while we were in the county
22 jail facing the murder of Matthew Cavalier. That's
23 when I became aware of it, yes.

24 Q. Because you were trying to task Mr. Romero
25 with killing a witness in that case, Kelly Mercer.

1 A. Yes.

2 Q. And you were calling Lilly to try to set
3 that up?

4 A. I was communicating -- we communicate
5 through our -- whoever comes to see us to pass on
6 messages through the streets. So I wasn't calling
7 her, but she was visiting me. I asked her to locate
8 Julian, and we were trying to set that up.

9 Q. But that's how you found out about it,
10 because there was never any follow-through by Mr.
11 Romero to help you out with that.

12 A. Yes. That's when I found out about it.

13 Q. And it's also contributed to Lilly not
14 seeing you as often at the jail?

15 A. That's correct.

16 Q. And when she didn't see you, you couldn't
17 have drugs smuggled in to you, like we were talking
18 about all on your direct examination.

19 A. That's correct.

20 Q. And that upset you?

21 A. It upset me that -- that didn't bother me.
22 What upset me is that that's the Number 1 rule in
23 the organization: A brother does not mess around
24 with another brother's wife. And he violated that
25 rule. And there's consequences for breaking such a

1 rule.

2 Q. Right. So you just didn't take it
3 personally; you thought it was disrespectful to the
4 S.

5 A. Yes, he violated a rule of the S.

6 Q. And to make sure, to try to effectuate
7 your hostility towards Mr. Romero, you actually went
8 to the tabla at that time and got sanctioned to kill
9 Mr. Romero?

10 A. What's "effectuate"?

11 Q. Well, you wanted to kill Mr. Romero;
12 correct?

13 A. Yes.

14 Q. And you were in jail?

15 A. Yes.

16 Q. You couldn't move around a lot?

17 A. Right.

18 Q. You wanted other people to help you carry
19 out that hit?

20 A. Yes.

21 Q. And so you went to other people in the SNM
22 to say, "I need your assistance to pull this off."

23 A. Yes. Not before getting approval from
24 Angel Munoz, who was the leader at that time.

25 Q. Right. And you and Angel were fast

1 friends?

2 A. Yes, we were.

3 Q. And Angel had given you the keys when he
4 left the prison system?

5 A. Yes.

6 Q. He wanted you to run the show?

7 A. Yes.

8 Q. He wanted you to call the shots.

9 A. Yes.

10 Q. You were the leader.

11 A. Yes.

12 Q. And in fact, you got out of prison for a
13 brief period of time before you were arrested in the
14 Cavalier murder; correct?

15 A. Yes.

16 Q. And you were working with Angel Munoz on
17 the streets selling crack cocaine.

18 A. Yes, I was.

19 Q. And according to you, you were selling 5
20 to 10 ounces of crack cocaine a week.

21 A. If that, yes.

22 Q. And in fact, that's why you were put back
23 in the Bernalillo County Detention Center, because
24 you tested dirty for a urine.

25 A. I tested dirty. I was using drugs.

1 Q. And you violated your probation.

2 A. Yes.

3 Q. And so they pulled you back in, and said,
4 "You're spending a weekend with us here at the
5 county jail."

6 A. Yes, sir.

7 Q. And it was during that weekend that
8 Matthew Cavalier was brought inside the jail.

9 A. That's correct.

10 Q. And that's when you developed a plan to
11 kill Matthew Cavalier.

12 A. That's correct. We were recognizing the
13 green light on him, and we developed a plan.

14 Q. All right. I want to come back to that.
15 But once you got approval from Angel Munoz to kill
16 Julian Romero, two people were tapped to go pull
17 that off: Frederico Munoz and -- who was it --
18 Shiman Pacheco?

19 A. Yes.

20 Q. And they went over, heavily armed, to kill
21 him.

22 A. Yes, they did.

23 Q. And they had a mini 14 rifle?

24 A. I don't know what kind of gun they had.

25 Q. You don't recall what kind of gun they

1 had?

2 A. It was a pistol, according to Freddie
3 Munoz.

4 Q. Because it was a pistol, they had to get
5 pretty close to Julian to try to shoot him?

6 A. Yes, that's correct.

7 Q. And so they pulled up in the driveway to
8 make that happen?

9 A. They pulled up in front of the house.
10 They were on the street.

11 Q. Right. And that's when Mr. Pacheco
12 started yelling at Frederico Munoz, "Shoot him,
13 shoot him."

14 A. Yes.

15 Q. And he started spraying bullets all around
16 the house?

17 A. Yes.

18 Q. And they didn't hit Lillian or the young
19 man that was there, but they hit Mr. Romero in the
20 leg.

21 A. Yes.

22 Q. But you weren't satisfied, because he
23 didn't die; correct?

24 A. That's correct.

25 Q. You wanted him dead?

1 A. That's correct.

2 Q. And the fact that you wanted to continue
3 with that hit just deepened the divisions within the
4 SNM politically, amongst the Archuleta branch and
5 the Romero branch.

6 A. Yes.

7 Q. And it got so bad that another SNM member,
8 Billy Garcia, tried to arrange a meeting with you to
9 call it off.

10 A. I don't think that's correct.

11 Q. Well, Billy Garcia came over to your house
12 to talk to you about the hit; correct?

13 A. That had already taken place, yes.

14 Q. Well, no; that you wanted him killed.

15 A. The conversation with me and Billy was
16 after Julian had gotten shot.

17 Q. Right. After he got shot.

18 A. Yes.

19 Q. And Billy came to your house?

20 A. Yes.

21 Q. And Billy said, "We got to cut this out.
22 This is personal."

23 A. Well, I'm the one who arranged the
24 sit-down. The sit-down was about Julian. I
25 explained to Billy that he should have been the one,

1 as a high-ranking member, to express to the brothers
2 that Julian messed up, violated a rule. And he
3 didn't do that.

4 I went on to say that "It's already gotten
5 to the point where either you're with me or you're
6 against me." That was the end of the conversation,
7 and he left.

8 Q. And Mr. Garcia didn't say he was with you,
9 did he?

10 A. Mr. Garcia -- excuse me? Say that again?

11 Q. Mr. Garcia came to your house; correct?

12 A. Oh, yes. Billy, yes.

13 Q. And he wanted to talk to you specifically
14 about Julian Romero.

15 A. Yes.

16 Q. And what he said to you was: "This is a
17 personal beef. Cut it out. Leave the S out of it."

18 A. Yes.

19 Q. And you said, "No, this is S business."

20 A. Yes.

21 Q. "This is disrespectful to the rules, the
22 reglas of the organization."

23 A. Yes.

24 Q. And you guys couldn't resolve your
25 differences.

1 A. No.

2 Q. And in fact, he left, and the whole issue
3 was unresolved.

4 A. Yes.

5 Q. And so the divisions, the political
6 divisions, within the SNM continued.

7 A. Yes.

8 Q. But Mr. Garcia wasn't pleased with your
9 perspective about Mr. Romero.

10 A. I would say that he wasn't pleased that --
11 I mean, this is a high-ranking SNM member. Usually
12 what he says goes. And when the hit wasn't dropped
13 and Julian was assaulted, which he wanted the hit to
14 be dropped, he felt very disrespected.

15 Q. Right. And because you didn't show any
16 loyalty to Billy Garcia, he ordered you to be
17 killed.

18 A. That's correct.

19 Q. And in fact, he sent his nephew to the
20 methadone clinic afterwards to try to kill you.

21 A. Yes, sir.

22 Q. And that's Baby Zack?

23 A. Yes, sir.

24 Q. And Baby Zack knew you were getting
25 methadone at the clinic because he knew you were

1 trying to kick heroin?

2 A. Yes, sir.

3 Q. And so he showed up on San Mateo, knowing
4 you would be there to pick up methadone.

5 A. That's correct.

6 Q. And he confronted you.

7 A. That's correct.

8 Q. And he said, "I'm going to take you out."

9 A. Yes, sir. He pulled out a gun on me and
10 said he was going to take me out.

11 Q. And your response to that was, you went
12 and got armed?

13 A. Yes, sir.

14 Q. You went and got a pistol.

15 A. Yes, sir.

16 Q. And you showed up at the methadone clinic
17 the next time armed with a 9 millimeter pistol?

18 A. Yes, sir.

19 Q. And Baby Zack showed up to do what he said
20 he was going to do: Take you out.

21 A. Yes, sir.

22 Q. And you beat him to the draw, so to speak.

23 A. Yes, sir.

24 Q. And you shot him.

25 A. Yes, sir.

1 Q. And you shot up the parking lot a bit.

2 A. Yes, sir.

3 Q. Okay. And you were arrested for that.

4 A. Yes, sir.

5 Q. And you were prosecuted for that and pled
6 guilty for that.

7 A. Yes, sir.

8 Q. So you weren't happy about going back to
9 prison, were you?

10 A. No, I wasn't happy about going back to
11 prison. I wasn't happy that they just tried to kill
12 me and that everybody involved were fellow gang
13 members of the S.

14 Q. Right. But my point being is: All of
15 that was related to Julian Romero.

16 A. Yes, sir.

17 Q. And you never called off the green light?

18 A. No, I didn't.

19 Q. Is it fair to say that the Gerald
20 Archuleta camp was perhaps in the minority?

21 A. "The minority" means like greater than?

22 Q. Well, less than.

23 A. That's not fair to say at all.

24 Q. So you had spoke about the SNM branching
25 out into different groups: Your group with your

1 followers; correct?

2 A. Yes, sir.

3 Q. And then there was another group that were
4 led by Billy Garcia?

5 A. Yes, sir.

6 Q. And then there's even a third group that
7 was led by Marty Barros; right?

8 A. Yes, sir.

9 Q. So out of the three groups, Billy Garcia
10 supported Julian Romero.

11 A. He was -- yes, he supported Julian Romero.

12 Q. And Marty Barros supported Julian because
13 he was an old-timer?

14 A. No, Marty Barros did not support Julian
15 Romero.

16 Q. But even you would agree with me that
17 those political divides created havoc within the
18 internal structure of the SNM?

19 A. Yes.

20 Q. Because you never know who was trusting
21 who?

22 A. That's correct.

23 Q. Now, you talked on direct about
24 drug-smuggling into prison facilities. And I want
25 to touch on that, because we just heard a whole

1 bunch of audiotape about it.

2 A. Yes, sir.

3 Q. One thing you didn't mention, you said the
4 easiest way was through contact visits; is that
5 right?

6 A. That would be correct.

7 Q. But another way, which you didn't talk
8 about, was convincing correctional officers to
9 smuggle drugs in for you.

10 A. That would be another way, yes.

11 Q. And you're familiar with that technique?

12 A. Yes, I am.

13 Q. Okay. And now I want to talk to you a
14 little bit about your first arrest and your first
15 trip to prison. And you talked about it on direct,
16 about the accidental shooting of your cousin.

17 A. Yes, I did.

18 Q. And that was after you discharged the
19 sawed-off shotgun to help out your uncle.

20 A. I don't understand the question.

21 Q. Okay. Well, you were talking about your
22 very first arrest, when I believe you were around 18
23 or 19, in 1988, '86?

24 A. Yeah, robbery conviction. Was it a
25 robbery conviction?

1 Q. No. This was the discharge of the weapon
2 that killed your cousin.

3 A. Okay.

4 Q. And you testified on direct examination
5 that you were contemplating suicide.

6 A. Yes.

7 Q. But you were joking with your cousins
8 about committing suicide, weren't you?

9 A. I don't think I was joking. I was
10 distressed by just hearing that I may have killed
11 someone. My intention wasn't to kill anybody with a
12 sawed-off shotgun. I intended to spray them with
13 pellets, and I was depressed.

14 Q. You were going to spray your cousin with
15 pellets?

16 A. No, there was a shooting prior to that.

17 Q. Right, where you were purportedly
18 protecting your uncle from the people that were
19 harassing him.

20 A. Yes.

21 Q. And you fired a sawed-off shotgun at them.

22 A. Yes.

23 Q. And your cousins actually thought,
24 according to your direct testimony, that you may
25 have killed one of the guys.

1 A. Yes.

2 Q. But you were never charged with that.

3 A. No.

4 Q. But do you remember writing a 24-page
5 summary of your life within the SNM?

6 A. Yes.

7 Q. Okay. And do you remember writing on page
8 1 of that summary, "I was joking around with Ruben
9 about committing suicide"?

10 A. I don't recall.

11 Q. Pardon me?

12 A. I don't.

13 MR. LOWRY: May I approach, Your Honor?

14 THE COURT: You may.

15 A. Yes, I wrote that.

16 BY MR. LOWRY:

17 Q. Mr. Archuleta, this is your handwriting.
18 This is a document you created?

19 A. Yes.

20 Q. Okay. And that's exactly what it says,
21 isn't it? "I was joking around with Ruben about
22 committing suicide."

23 A. Yes, that's what it says.

24 Q. And you told Ruben, "I'm just kidding.
25 I'm not ready to commit suicide."

1 And that's when you were lowering the gun,
2 and it accidentally discharged.

3 A. Yes, that's apparently what I wrote, yeah.

4 Q. Right. Well, that's what happened, isn't
5 it?

6 A. No. I was depressed with hearing the news
7 that I was -- that I may have killed someone.
8 That's how I remember it.

9 Q. Did anybody rush you when you were writing
10 this?

11 A. No.

12 Q. Mr. Acee asked you to write it to give him
13 your thoughts about your experiences growing up.

14 A. Yes.

15 Q. And you sat down at your leisure and wrote
16 out this 24-page statement; correct?

17 A. Yes.

18 Q. And while you contemplated it in the
19 quietude of your cell, you actually wrote, "I was
20 joking around with Ruben about committing suicide.
21 And then I said, 'Not really'?"

22 A. Okay.

23 Q. So you were joking.

24 A. No, I wasn't joking. I think that's the
25 story I used when I got to prison to save face in

1 front of our SNM members. I couldn't say that I
2 actually thought about committing suicide.

3 Q. Mr. Archuleta, you weren't writing this
4 for the other SNM members, were you?

5 A. No, I wasn't.

6 Q. You were writing it for this gentleman
7 over here with the FBI?

8 A. Right.

9 Q. Did you have to save face with him?

10 A. No, I don't.

11 Q. Did you have to make sure he -- did you
12 have to mislead him about what really happened?

13 A. No.

14 Q. You understand it's a felony offense to
15 lie to the FBI?

16 A. Yes.

17 Q. So you got a light prison sentence for the
18 accidental discharge of the weapon that killed your
19 cousin.

20 A. I got the maximum penalty, which was
21 involuntary manslaughter. It carried 18 months.

22 Q. And one extra year for a firearm
23 enhancement.

24 A. Yes, sir.

25 Q. But under New Mexico law, you were out

1 fairly quickly.

2 A. Yes.

3 Q. And the point I was getting at is: When
4 you went into prison that first time, you wanted
5 drugs.

6 A. Yes.

7 Q. You weren't an SNM member, were you?

8 A. No, I wasn't.

9 Q. You were just a regular inmate in the
10 correctional department.

11 A. Yes, sir.

12 Q. You still wanted drugs.

13 A. I wanted drugs.

14 Q. And you convinced a correctional officer
15 to bring marijuana in to you.

16 A. Yes, I did.

17 Q. And he did that routinely?

18 A. Yes.

19 Q. But in order to get the marijuana, he had
20 to meet up with your girlfriend; right?

21 A. Yes, sir.

22 Q. And that was Frances Montano.

23 A. Yes, sir.

24 Q. And that's a woman you'd been dating since
25 you were a teenager.

1 A. Yes, sir.

2 Q. And because they met so frequently, they
3 struck up a romantic affair, didn't they?

4 A. Yes, sir. That was my first wife, yes,
5 sir.

6 Q. And when you got out of prison, you went
7 back home to meet her; correct?

8 A. Yes, sir.

9 Q. And you found out about the relationship.

10 A. Yes, sir.

11 Q. And that didn't make you happy, either,
12 did it?

13 A. No, it didn't.

14 Q. And you wanted to kill her, when you got
15 released, because you already had a sense about the
16 relationship.

17 A. Yes, sir.

18 Q. And so you thought, as you went home, you
19 were going to kill her.

20 A. Yes, sir.

21 Q. But the icing on the cake is: When you
22 got home to your grandmother's house, where you
23 lived, you found out she was pregnant.

24 A. Yes, sir.

25 Q. With his child.

1 A. She said she may be pregnant, but didn't
2 tell me whose child.

3 Q. And you didn't bother to find out.

4 A. No, I didn't.

5 Q. You strangled her to death.

6 A. Yes, I did.

7 Q. And you choked her.

8 A. Yes, I did.

9 Q. And you said once you got your hands
10 around her neck, you knew you weren't going to let
11 go until she was dead.

12 A. That's correct.

13 Q. And you killed her.

14 A. Yes.

15 Q. And then you hid her body in the closet in
16 your grandmother's house.

17 A. I did not hide her body in the closet. I
18 left her there on the floor.

19 Q. Again, you wrote this statement; right?

20 A. Yes.

21 Q. May I show you? May I refresh your
22 recollection again?

23 A. Yes.

24 MR. LOWRY: May I approach, Your Honor?

25 THE COURT: You may.

1 BY MR. LOWRY:

2 Q. Mr. Archuleta, you would agree with me
3 when you wrote this for the FBI, you wrote, "Without
4 thinking and in rage, I grabbed her by the neck and
5 started to choke her"?

6 A. Yes.

7 Q. "I knew I wasn't going to stop choking her
8 until she was dead"?

9 A. Yes.

10 Q. "I then put her in the closet and left the
11 house so that I could find some transportation";
12 correct?

13 A. Yes.

14 Q. And then you went on to write, "But while
15 I was gone, my grandmother found her and called an
16 ambulance, but she was dead."

17 A. Yes.

18 Q. On direct examination, you told this jury
19 you left the house and you called the authorities to
20 let the authorities know she was there. But that
21 wasn't true, was it?

22 A. I did report -- I walked to the laundromat
23 and called the authorities and reported the
24 incident, yes.

25 Q. But your grandmother had called it in

1 already.

2 A. I also had called it in.

3 Q. Okay. You didn't include that in your
4 summary to the FBI, did you?

5 A. If it's not there, I didn't. But --

6 Q. And that was your second conviction that
7 Mr. Beck talked about, in 1988?

8 A. Yes.

9 Q. You pled guilty to her murder.

10 A. Yes.

11 Q. And you got a four-year habitual offender
12 sentence and a 12-year sentence for the murder?

13 A. Yes.

14 Q. But that didn't keep you in prison long
15 either, did it?

16 A. I had to finish the sentence. I did the
17 sentence.

18 Q. Right. But it wasn't anywhere close to 16
19 years.

20 A. It was maybe 11 or 12.

21 Q. No, you remember, that would have been in
22 1988. You got out and then had probation
23 violations.

24 A. Eleven years. I got out in '99. I
25 believe '99, '98; 11 years. I did 11 years on a

1 16-year sentence.

2 Q. And it was during those 11 years that you
3 really truly got into prison culture and prison
4 life.

5 A. Yes.

6 Q. And that's what led you to associate with
7 the SNM?

8 A. Yes.

9 Q. Now, I want to talk to you about your
10 entry into the SNM, because Mr. Beck talked to you
11 about some of the benefits you were getting in your
12 plea agreement; correct?

13 A. Yes.

14 Q. And he talked to you about the
15 2,200-some-odd dollars that you got?

16 A. Yes.

17 Q. And that was for commissary and telephone
18 and things like that?

19 A. Yes.

20 Q. And so you could communicate with your
21 family?

22 A. Yes.

23 Q. Telephone calls, write letters?

24 A. Yes.

25 Q. But the real benefit that you're getting

1 in this case isn't the commissary money, is it?

2 A. No.

3 Q. The benefit you're getting is the United
4 States not prosecuting for all of the SNM activities
5 that you talked about on direct, isn't it?

6 A. Yes.

7 Q. Because there were multiple stabbings.

8 A. That's correct.

9 Q. And there were a lot of attempted murders.

10 A. That's correct.

11 Q. And you were the moving force behind a lot
12 of that.

13 A. That's correct.

14 Q. And in exchange for your testimony today,
15 the United States agreed just to give you a
16 three-year charge.

17 A. Yes, sir.

18 Q. And you're almost done with your time,
19 aren't you?

20 A. That's correct.

21 Q. You have less than a year to go.

22 A. That's correct.

23 Q. Do you know what your kickout date is?

24 A. I'm not sure. Three years would be
25 December 2 of this year.

1 Q. And you get to do 85 percent of that time,
2 so you get 50 days off a year.

3 A. I'm not getting no good time at all. As
4 of now, I don't know if I'm getting any good time.

5 Q. So your lawyer hasn't explained that to
6 you?

7 A. No.

8 Q. But it's a relatively short prison
9 sentence, isn't it?

10 A. It's a three-year sentence, yes.

11 Q. And it surely isn't life in prison, is it?

12 A. No, it ain't.

13 Q. And when you met with the United States,
14 they explained to you if you wanted to get charged
15 in the RICO conspiracy, you could get life in
16 prison, didn't they?

17 A. Yes.

18 Q. And rather than do that, you said you'd
19 tell them a story.

20 A. That I would cooperate in this RICO
21 indictment.

22 Q. Now, let's go through some of the activity
23 that the United States is willing to forgive you
24 for, okay? So there was the very initial -- what
25 you call the introductory stabbing of Chaparro;

1 correct?

2 A. Yes. Would you say that again?

3 Q. Well, I believe you testified on direct
4 that it was sometime shortly after you arrived at
5 the facility you met with Phillip Cordova and Marty
6 Barros in the chow hall in the Old Main?

7 A. Yes.

8 Q. And they said, "Do you want to become an
9 SNM member?"

10 A. At that time I was already an SNM member,
11 but --

12 Q. Do you remember that's what --

13 A. Yes.

14 Q. -- that's not what you put in your
15 little --

16 A. Well, that's when I actually earned my
17 bones.

18 Q. Right.

19 A. But I had been considered a brother in the
20 S for a little while before that, just hanging
21 around the S and participating in daily SNM
22 activity. I mean -- okay.

23 Q. Right. But they said, "If you want to be
24 a member, go stab Chaparro in the neck."

25 A. Yes.

1 Q. And you did.

2 A. Yes.

3 Q. You didn't think twice about it.

4 A. Right.

5 Q. And you tried to kill him.

6 A. Yes.

7 Q. And that's because he had shorted drugs to
8 the SNM.

9 A. Yes.

10 Q. It wasn't just any drugs; it was heroin.

11 A. Yes.

12 Q. And so once he was stabbed, he was taken
13 off line, he went into protective custody.

14 A. Yes.

15 Q. And that was the whole idea, to cull the
16 herd, so to speak, getting rid of the weak?

17 A. Yes.

18 Q. And then you talked about the second one,
19 with Eddie Lopez.

20 And by the way, you're not going to get
21 any time for that. You didn't get any time in the
22 state court when that happened, did you?

23 A. No, I didn't.

24 Q. Nobody complained?

25 A. I did not get no time for it.

1 Q. No criminal charges?

2 A. No criminal charges.

3 Q. But the federal government could bring
4 criminal charges for that, couldn't they?

5 A. No. I signed a Kastigar letter saying I
6 couldn't be charged for anything that I would talk
7 about the day that I started cooperating.

8 Q. Right. They gave you immunity for your
9 sit-down statement for a single day.

10 A. With others, with others, other days when
11 they needed to do follow-ups.

12 Q. As long as you were truthful.

13 A. Yes.

14 Q. But even that first day you met with the
15 FBI, you weren't really truthful with them.

16 A. Why is that?

17 Q. Well, do you remember telling the FBI,
18 when you met on January 21, that you were never a
19 formal leader of the SNM?

20 A. Yes.

21 Q. That was a lie, wasn't it?

22 A. Yes, I was downplaying my role. I just
23 started cooperating. And I wasn't sure of the whole
24 idea of cooperating, and I downplayed my role.

25 Q. But that was a lie, wasn't it?

1 A. Yes, that wasn't true.

2 Q. And again, you can be punished for lying
3 to the FBI.

4 A. Yes.

5 Q. Remember, Martha Stewart went to prison
6 for lying to the FBI.

7 A. Yes.

8 Q. But they didn't charge you with lying to
9 them, did they?

10 A. No.

11 Q. Because they wanted your testimony?

12 A. Yes.

13 Q. Now, when you stabbed Eddie Lopez, you
14 actually deceived him; right? Or you tricked the
15 guard to make that happen?

16 A. No.

17 Q. Well, you worked in concert with another
18 gentleman; correct?

19 A. Yes.

20 Q. And that gentleman distracted the guard so
21 you could get close to Eddie Lopez and stab him?

22 A. Yes.

23 Q. And so your companion made Eddie Lopez
24 more vulnerable by making sure he wasn't being
25 observed or protected.

1 A. Yes.

2 Q. And you pulled that off.

3 A. Excuse me?

4 Q. And you stabbed him.

5 A. Yes.

6 Q. And got him out of there.

7 A. Yes.

8 Q. Just like Phillip Cordova wanted you to.

9 A. Yes.

10 Q. And again, you weren't charged for that.

11 A. No, I wasn't.

12 Q. And not even the federal government wants
13 to charge you for that as part of a racketeering
14 conspiracy.

15 A. That was part of the agreement before I
16 started cooperating, according to the Kastigar
17 letter.

18 THE COURT: Mr. Lowry, would this be a
19 good time for us to take our break?

20 MR. LOWRY: Sure, Your Honor.

21 THE COURT: All right. We'll be in recess
22 for about 15 minutes.

23 (The jury left the courtroom.)

24 THE COURT: All right. We'll be in recess
25 for about 15 minutes.

1 (The Court stood in recess.)

2 THE COURT: All right. We'll go on the
3 record. Anything from the Government we need to
4 discuss? Anything I can do for you?

5 MR. BECK: No, Your Honor.

6 THE COURT: What about you, Mr. Lowry?
7 Anybody on the defense side?

8 (The jury entered the courtroom.)

9 THE COURT: Everyone be seated.

10 All right. Mr. Archuleta, I'll remind you
11 that you're still under oath.

12 THE WITNESS: Yes.

13 THE COURT: Mr. Lowry, if you wish to
14 continue your cross-examination of Mr. Archuleta,
15 you may do so at this time.

16 MR. LOWRY: Thank you, Your Honor.

17 THE COURT: Mr. Lowry.

18 BY MR. LOWRY:

19 Q. Mr. Archuleta, after the -- and you
20 stabbed Eddie Lopez; correct?

21 A. Yes.

22 Q. And again, ideally, you wanted to kill
23 him?

24 A. No.

25 Q. You didn't want to kill him?

1 A. No, the objective was to remove him from
2 the line. I stabbed him in the side twice.

3 Q. Just to get him out of there?

4 A. Just to remove him.

5 Q. Just sort of a gratuitous stabbing, just a
6 "You don't belong here"?

7 A. Yes. So they could remove him from the
8 line.

9 Q. And after that, you were transferred to
10 the Southern facility down here in Las Cruces?

11 A. Yes.

12 Q. And you weren't a fan of Southern, were
13 you?

14 A. No.

15 Q. Because you're from Albuquerque?

16 A. Yes.

17 Q. And your family is all there?

18 A. Yes.

19 Q. Living in Southern made it hard for you to
20 communicate with your family.

21 A. Yes.

22 Q. And without family visits, days drag on
23 endlessly.

24 A. Yes.

25 Q. And you developed a plan, a scheme, to get

1 out of Southern, didn't you?

2 A. Yes.

3 Q. And you hatched that plan with another SNM
4 member, Robert Martinez; correct?

5 A. Yes.

6 Q. And he's also known as Baby Rob; right?

7 A. Yes.

8 Q. And neither one of you wanted to be in
9 Southern.

10 A. That's correct.

11 Q. You both wanted to be back in Santa Fe at
12 the old facility.

13 A. That's correct.

14 Q. And in order to get there, you said,
15 "Okay, we'll pick somebody out and assault them, so
16 they ship us back north"; is that right?

17 A. That's correct.

18 Q. And in fact, there was -- another
19 gentleman learned about your plan, Jesse Trujillo,
20 and joined you in it.

21 A. That's correct.

22 Q. Because he wanted out of Southern, too.

23 A. Yes.

24 Q. So rather than work with the Department of
25 Corrections, you guys thought you'd manipulate the

1 system to get what you wanted out of it.

2 A. That's correct.

3 Q. And the plan was: Well, at this point,
4 there is some tension between SNMers and the Aryan
5 Brotherhood guys; right?

6 A. That's correct.

7 Q. And in fairness, you said the Aryan
8 Brotherhood was a white gang. But the Aryan
9 Brotherhood is really a White Supremacist gang,
10 isn't it?

11 A. That's correct.

12 Q. It's really hard to like a White
13 Supremacist, isn't it?

14 A. After the war started at the main
15 facility, yes, that's correct. I'm not sure -- when
16 I was in Cruces, I don't think the war had started
17 by then. I'm not sure.

18 Q. Okay. But you knew that they were easy
19 pickins in terms of, if you had to assault somebody
20 on the yard, going after an AB guy, nobody is going
21 to complain?

22 A. Right. What I'm saying is: I don't think
23 we hit him because he was AB. Our plan was to, from
24 what I remember.

25 Q. But you singled out a white guy that had

1 been convicted of a rape charge.

2 A. Yes.

3 Q. So he was a two-fer. He was a white guy
4 with a sexual offense.

5 A. Yes.

6 Q. So nobody was going to bat an eye about
7 assaulting this guy.

8 A. Right.

9 Q. And the plan was: You were going to,
10 again, come at him from different angles, correct,
11 on the yard?

12 A. That's correct.

13 Q. And you took a rock, a good-sized rock,
14 and hid it under your arm.

15 A. That's correct.

16 Q. And you were going to smash him in the
17 face.

18 A. That's correct.

19 Q. And Jesse Trujillo, once he was hit, was
20 going to stab him.

21 A. That's correct.

22 Q. And then Robert Martinez was just going to
23 pile on and help beat him up.

24 A. That's correct.

25 Q. It didn't quite go as planned, did it?

1 A. No.

2 Q. Because when -- you concealed the rock;
3 correct?

4 A. Yes.

5 Q. And when you got close enough to where you
6 thought you could strike him in the face, you threw
7 it at him, but missed.

8 A. That's correct.

9 Q. And he didn't even see the rock as it
10 whizzed by him.

11 A. That's correct.

12 Q. But it didn't stop Jesse Trujillo. He
13 still ran up and stabbed the guy.

14 A. Yes.

15 Q. And Robert Martinez jumped in and started
16 beating him up, as well.

17 A. That's correct.

18 Q. And at that point, guards come rushing in,
19 correct, to the yard?

20 A. Yes, that's correct.

21 Q. And you guys took off.

22 A. That's correct.

23 Q. The only one that got picked up was Mr.
24 Trujillo, right, on the assault?

25 A. Yes.

1 Q. So the first attempt to get back to Santa
2 Fe was foiled, because it didn't really go as
3 planned.

4 A. Yes.

5 Q. So you had to pick out another person?

6 A. Yes.

7 Q. And you picked out another white guy?

8 A. That's correct.

9 Q. And to make sure you were successful this
10 time, you picked up a baseball bat.

11 A. That's correct.

12 Q. And you and Robert Martinez attacked him.
13 This time you had a baseball bat.

14 A. That's correct.

15 Q. And you took him out.

16 A. I assaulted him.

17 Q. And in your little story here, you say,
18 "Robert punched him and took him to the ground, and
19 I hit him with the bat a couple of times. And we
20 were busted in the act, and we were on our way back
21 to Santa Fe."

22 A. That's correct.

23 Q. And you actually have a little smiley face
24 next to that.

25 MR. LOWRY: May I turn on the Elmo just

1 for demonstrative purposes, Your Honor?

2 THE COURT: You may.

3 MR. LOWRY: Your Honor, may we approach?

4 (The following proceedings were held at
5 the bench.)

6 MR. LOWRY: I want to use it for
7 demonstrative purposes. The witness has identified
8 this writing as his own. It's a very accurate
9 depiction of his writing. And I just want to show
10 the jury that it has a smiley face, that he was
11 actually happy that he attacked somebody.

12 MR. BECK: I mean, it's hearsay. It's an
13 out-of-court statement. We don't show jurors
14 out-of-court hearsay.

15 THE COURT: What are you trying to do?
16 What is this?

17 MR. LOWRY: This is his diary, for lack of
18 a better word, his life as an SNM --

19 THE COURT: I think you can impeach him
20 with it, but I don't think you can put that in front
21 of the jury in any form, like on an Elmo or
22 anything.

23 MR. LOWRY: Okay, all right.

24 (The following proceedings were held in
25 open court.)

1 THE COURT: Mr. Lowry.

2 BY MR. LOWRY:

3 Q. So it was mission accomplished for you;
4 right?

5 A. Yes.

6 Q. And you were happy?

7 A. Yes.

8 Q. And you were happy that you got shipped
9 back to Santa Fe; correct?

10 A. Correct.

11 Q. And it didn't matter to you that you had
12 to assault two people to get there?

13 A. No.

14 Q. And again, nobody charged you criminally
15 for either assault?

16 A. No, sir.

17 Q. Now, when you get back to Santa Fe, this
18 is the era, if you will, where the tensions start
19 erupting between the SNM and the Aryan Brotherhood.

20 A. Yes.

21 Q. And in fact, during this process, they're
22 closing down the Old Main; correct?

23 A. Yes.

24 Q. And they're shipping people to what we've
25 called throughout these proceedings the PNM North

1 facility and PNM South facility?

2 A. Yes.

3 Q. And they're all part of the Santa Fe
4 complex?

5 A. That's correct.

6 Q. And you were in the Old Main with two
7 leaders of the Aryan Brotherhood?

8 A. That's correct.

9 Q. Right. And you were with John Price and
10 some other guy. You didn't know whose name it was,
11 but it might have been Tree?

12 A. Tree. He was from Utah. They called him
13 Tree. I don't know his real name.

14 Q. And you guys wanted to take them out.

15 A. Yes.

16 Q. And this time was for real. You wanted to
17 stab him and really take him out.

18 A. Yes.

19 Q. So you guys got shanks; correct?

20 A. Yes.

21 Q. And at this time there is no tier time;
22 they sort of let everybody out at once; correct?

23 A. That's correct.

24 Q. You guys ganged up and attacked both John
25 Price and Tree?

1 A. That's correct.

2 Q. And stabbed them repeatedly?

3 A. That's correct.

4 Q. Tried to kill them?

5 A. That's correct.

6 Q. Fortunately for them, you weren't
7 successful, were you?

8 A. No, we weren't.

9 Q. But the effort was put in.

10 A. That's correct.

11 Q. And for that, they moved you from the Old
12 Main facility to the South facility?

13 A. That's correct.

14 Q. And what timeframe was this? Was this mid
15 '90s?

16 A. I would say around there, '97, something
17 like that.

18 Q. Now, when you get to PNM South -- Level 5;
19 right?

20 A. Yes.

21 Q. -- Junior is in charge.

22 A. Yes.

23 Q. He's the llavero.

24 A. That's correct.

25 Q. And Junior's name is Leroy Torrez; right?

1 A. That's correct.

2 Q. And what is Leroy Torrez infamous for?

3 What did Leroy Torrez start, if you will?

4 A. Well, at that time he didn't start --
5 after the fact, at that time there was no All Star
6 gang. He didn't start the All Star gang until after
7 he was assaulted.

8 Q. Okay. Is that what precipitated him
9 coming up with the idea of the All Stars, is you
10 taking Junior out when you got to the South
11 facility?

12 A. No, sir.

13 Q. Okay. But you didn't want him in charge?

14 A. No, sir.

15 Q. And by this time, from your trip down to
16 Southern, you'd become fast friends with Angel
17 Munoz?

18 A. Yes.

19 Q. Who was the undisputed leader of the SNM?

20 A. Yes, sir.

21 Q. And you contacted Angel and said, "We need
22 to take this guy out."

23 A. No, that's not correct.

24 Q. Well, did you not plot against him?

25 A. Yes, that's correct. As soon as I got to

1 the South facility, brothers were bringing to my
2 attention that -- how he was very disrespectful
3 towards brothers. And the issue was brought up to
4 Marty Barros. He was -- from that point on, he was
5 expected to step down, which he did not do.

6 Q. And you went to Marty Barros because he
7 was there in Santa Fe?

8 A. He was in Santa Fe, yes.

9 Q. And Angel Munoz is down at Southern;
10 correct?

11 A. Yes.

12 Q. So Marty Barros is the most senior person
13 to talk to?

14 A. Yes, at that time, in Santa Fe.

15 Q. And you wanted to get Marty Barros'
16 approval to do this.

17 A. Yes.

18 Q. Because you didn't want to be on the outs
19 with anybody.

20 A. Because why?

21 Q. Because you didn't want to be on the outs
22 with anybody. You didn't want to be adverse to
23 Marty Barros.

24 A. You have to get permission or approval for
25 an assault on a former -- on a member of the SNM.

1 So I got approval from Marty Barros.

2 Q. Except Julian Romero was an exception;
3 right? You didn't have to get permission from
4 anybody to call the hit on Julian Romero.

5 A. No. It was approved by Angel Munoz.

6 Q. Right. But just not Marty.

7 A. Anything coming from Angel was the same as
8 coming from Marty.

9 Q. So you got approval?

10 A. Yes.

11 Q. You stabbed Leroy Torrez.

12 A. I did not. I wasn't at the facility, but
13 it was carried out.

14 Q. But you participated in the planning of
15 that.

16 A. Yes, that's correct.

17 Q. You might not have participated in the
18 actual assault on Mr. Torrez, but you set the whole
19 thing up.

20 A. That's correct.

21 Q. You set it in motion.

22 A. That's correct.

23 Q. You made sure it happened.

24 A. That's correct.

25 Q. You orchestrated it.

1 A. That's correct.

2 Q. Now, with Leroy Torrez out of the way, you
3 were fully in charge of the Southern, PNM South.

4 A. That's correct.

5 Q. And that's, what, '95, '96?

6 A. '98.

7 Q. '98?

8 A. Somewhere around there.

9 Q. And this is where you resume -- now, it's
10 a full-fledged war with the Aryan Brotherhood by
11 this time.

12 A. Yes, sir.

13 Q. And you resumed attacks on the Aryan
14 Brotherhood.

15 A. That's correct.

16 Q. And you wanted to get a little more
17 splashy about it, so you guys planned a double
18 assault.

19 A. Yes.

20 Q. And it was sort of a decoy assault:
21 Assault one guy in the pod, so all the COs come
22 rushing in; and then somebody else can take out
23 another Aryan Brotherhood where security is more
24 lax.

25 A. That's how it was performed. But they

1 were both Aryan Brotherhood.

2 Q. Right.

3 A. Yes.

4 Q. And you selected them specifically because
5 of that.

6 A. Yes, sir.

7 Q. And they were stabbed.

8 A. Yes.

9 Q. And you tried to kill them both, or the
10 plan was to kill them both.

11 A. That's correct.

12 Q. And again, you were never prosecuted for
13 those attempted murders.

14 A. No, sir.

15 Q. And the federal government said they were
16 going to overlook that and give you a three-year
17 sentence in exchange for your testimony.

18 A. Yes, sir. I received three years. But I
19 received a death sentence from the S at the same
20 time.

21 Q. We'll get to that.

22 Now, at this point, Department of
23 Corrections is a bit fed up; correct?

24 A. That's correct.

25 Q. So they sent you -- they think, We're

1 going to get rid of Gerald Archuleta. We're going
2 to send him over to the eastern plains. They're
3 going to send you to Hobbs.

4 A. That's correct.

5 Q. But when you get to Hobbs, there are still
6 people that you know that belong to the SNM there.

7 A. That's correct.

8 Q. And lo and behold, John Price, the Aryan
9 Brotherhood gentleman that you attacked in the Old
10 Main, is there.

11 A. That's correct.

12 Q. And you so think, Hey, I can take care of
13 unfinished business.

14 A. That's correct.

15 Q. And so with John Price and another guy,
16 Robert -- how do you say that?

17 A. Hanrahan.

18 Q. Hanrahan. And you guys make the plan to
19 attack these guys yet again.

20 A. That's correct.

21 Q. And you try to kill John Price.

22 A. Yes, assault him.

23 Q. Well, you stabbed him.

24 A. Yeah, stabbed him.

25 Q. Beat him with a broom.

1 A. There's the possibility that he could have
2 died, yes.

3 Q. Well, I mean, that's sort of the purpose
4 of the war with the Aryan Brotherhood, to dominate
5 them; correct?

6 A. That's correct.

7 Q. You wanted everybody to know that you're
8 going to dominate them.

9 A. That's correct.

10 Q. You wanted to kill them.

11 A. That's correct.

12 Q. Because you wanted the prestige.

13 A. Because there was a green light. It
14 wasn't about the prestige. It was about the green
15 light that had been set on the Aryan Brotherhood.
16 It was the war. There was a war between the SNM and
17 the Aryan Brotherhood. And as an SNM Gang leader, I
18 was expected to retaliate every chance I got against
19 the Aryan Brotherhood.

20 Q. So you tried to kill him.

21 A. I guess that's correct.

22 Q. Him and Robert Hanrahan.

23 A. That's correct.

24 Q. And you were never charged with that.

25 A. No, sir.

1 Q. And the federal government said, "We're
2 not going to charge you with it either."

3 A. That's correct.

4 Q. "And instead, you'll get a three-year
5 sentence."

6 A. That's correct.

7 Q. Now, that's the despite multiple stabbings
8 and assaults -- and that's 10 -- New Mexico
9 Department of Corrections paroled you to the streets
10 of Albuquerque; correct?

11 A. No.

12 Q. No?

13 A. No, they paroled me. I paroled to
14 Tennessee.

15 Q. No, but this is in 2000.

16 A. Okay, yes. I paroled. Yeah, I paroled to
17 Albuquerque.

18 Q. And this is when you're out on the
19 streets; correct?

20 A. Yes.

21 Q. And Angel Munoz is out on the streets;
22 right?

23 A. Yes.

24 Q. And you guys are doing your thing with
25 crack.

1 A. Yes.

2 Q. And this is when you tested dirty in 2001,
3 and you go to BCDC, and the whole incident with
4 Matthew Cavalier happens.

5 A. That's correct.

6 Q. And that's what really precipitated the
7 Julian Romero division.

8 A. Yes.

9 Q. I want to talk about the Matthew Cavalier
10 incident for a moment, because again, you used a bit
11 of deception to kill Mr. Cavalier, didn't you?

12 A. Yes, sir.

13 Q. Because you went in thinking you were
14 going to do a three-day weekend in the local county
15 jail; correct?

16 A. That's correct.

17 Q. But when Matthew Cavalier comes in, you
18 and everybody else that was affiliated with SNM
19 thought: We have business to take care of.

20 A. Yes, sir.

21 Q. And everybody knew Matthew Cavalier was a
22 snitch.

23 A. Yes, sir.

24 Q. And snitches get stitches.

25 A. Snitches get killed.

1 Q. Right. That's the rule.

2 A. That's the rule.

3 Q. But you didn't want Matthew Cavalier to
4 think that, did you?

5 A. No, sir.

6 Q. And Matt came to you and asked you for a
7 pass.

8 A. Yes, sir.

9 Q. And you made him think he was going to get
10 a pass.

11 A. Yes, sir.

12 Q. And you told him, "Hey, if you put in some
13 work for us here at the MDC, we can work this out."

14 A. That's correct.

15 Q. And it's kind of awkward, because
16 initially Matt was your celly, wasn't he?

17 A. Yes, that's correct.

18 Q. You didn't want him to be your celly.

19 A. No, I didn't.

20 Q. You didn't want him near you.

21 A. No, I didn't.

22 Q. So you had the COs move him out of your
23 cell.

24 A. That's correct. Or I moved to another
25 cell.

1 Q. You moved out and left him there.

2 A. Yes.

3 Q. But you went and told Matt, "Hey, we're
4 going to have a little get-together tonight. Let's
5 party."

6 A. That's correct.

7 Q. And you met up just before the final count
8 for the night, around 10:00, to do some heroin.

9 A. Or to smoke some cigarettes, I think.

10 Q. A little bit of -- well, you did a shot of
11 heroin earlier in the evening.

12 A. I don't recall. I know that we went into
13 the room to smoke some cigarettes with him. We were
14 doing heroin at the time, also.

15 Q. Would it refresh your recollection to look
16 at your statement?

17 A. No, I don't need the recollection.

18 Q. So you were doing heroin with Matthew
19 Cavalier that evening?

20 A. Yes.

21 Q. And you wanted him to relax around you
22 guys?

23 A. Yes.

24 Q. So you thought you'd party a little bit;
25 correct?

1 A. Correct.

2 Q. And then you said, "Hey, before final
3 count, let's get together and we'll smoke some
4 cigarettes."

5 A. Yes, correct.

6 Q. And so there were you and Roy Martinez,
7 Shadow; correct?

8 A. Correct.

9 Q. And a couple of other gentlemen met him at
10 his cell.

11 A. Correct.

12 Q. And who were the other gentlemen? Was --

13 A. Francisco Villalobos. His name is Paco.
14 Roy Martinez; his name is Shadow. And Big Rabbit is
15 Samuel Silva.

16 Q. And the Mercers, Kelly and Johnny Mercer?

17 A. They were in the pod.

18 Q. So they weren't really part of the plan;
19 they just happened to be there observing.

20 A. Yes.

21 Q. And you and Silva and Munoz go in to smoke
22 cigarettes with Matthew Cavalier.

23 A. Who is Munoz?

24 Q. Well, pardon me. Frederico. Isn't it
25 Playboy?

1 A. Yes.

2 Q. No, pardon me. Roy Martinez. Pardon me.

3 A. Yes. Me, Roy Martinez, Francisco
4 Villalobos, and Samuel Silva went into the room with
5 Matt and Kelly to smoke some cigarettes.

6 Q. And when you entered into the room, you
7 guys had already developed a plan to kill him.

8 A. That's correct.

9 Q. And you knew exactly who was going to do
10 what when you entered the room.

11 A. That's correct.

12 Q. And you don't smoke cigarettes.

13 A. No, sir.

14 Q. You were assigned the lookout.

15 A. Yes, sir.

16 Q. It was your idea to take Matthew out.

17 A. It was. There was a recognized green
18 light on him, and we knew what we had to do.

19 Otherwise, if we didn't honor the green light, it
20 could have been held against us later on.

21 Q. But you were the most senior there.

22 A. Right. I wasn't in the position to call
23 off a green light from Marty Barros, so I carried
24 out the green light.

25 Q. So you kept watch; correct?

1 A. Yes.

2 Q. Outside the cell. Made sure nobody came,
3 no guards were coming.

4 A. Yes.

5 Q. And you gave them the thumbs up.

6 A. Yes.

7 Q. And once they finished their cigarette,
8 somebody puts Matthew Cavalier in a bearhug; right?

9 A. Yes.

10 Q. And somebody grabs his feet?

11 A. That's correct.

12 Q. And then Roy Martinez takes a piece of a
13 bedspread and strangles him.

14 A. That's correct.

15 Q. And you guys thought he had killed him;
16 correct?

17 A. That's correct.

18 Q. And you left him there and covered him up.

19 A. That's correct.

20 Q. You heard -- about 30 minutes later, you
21 figured out, oh, that didn't really work. He's
22 still alive.

23 A. Yes.

24 Q. And so you had to go back in the room and
25 reattack him.

1 A. Yes.

2 Q. And at that time, you guys broke his neck
3 to make sure he was dead.

4 A. Yes.

5 Q. Okay. And you covered up his body.

6 A. His body was covered up.

7 Q. And nobody in the pod mentioned it.

8 A. No.

9 Q. And you went through successive counts.
10 The guards came around and just thought he was
11 sleeping.

12 A. Yes.

13 Q. It wasn't until the next day that somebody
14 called home and said, "You won't believe it, but
15 there's this dead guy in the pod here and nobody
16 knows about it."

17 A. That's correct.

18 Q. And they called the news channel, and the
19 news channel had to call the jail to say that they
20 had a dead body in there.

21 A. That's correct.

22 Q. That's how deceptive you guys were, that
23 nobody inside the institution knew he was dead. The
24 word had to come from outside.

25 A. Other than those in the pod, that's

1 correct.

2 Q. Those involved.

3 A. Those involved, and everybody else that
4 was in the pod. That's correct.

5 Q. Now, at this time you were good friends
6 with Jake Armijo.

7 A. That's correct.

8 Q. Jake Armijo was one of those guys that was
9 in the Gerald Archuleta camp.

10 A. That's correct.

11 Q. Jake Armijo was an enforcer for the Gerald
12 Archuleta camp.

13 A. That's correct.

14 Q. And you wanted to get -- after everything
15 blew up and you guys knew you were facing criminal
16 charges for Matthew Cavalier's death and you knew
17 Kelly Mercer was going to testify, you wanted to get
18 Jake Armijo --

19 A. That's not correct.

20 Q. What --

21 A. That was another incident with --

22 Q. That was Baby Zack?

23 A. That was Baby Zack, yes. We were trying
24 to get -- when we were in jail facing the murder for
25 Moscow, Kelly Mercer was a witness.

1 Q. This is when you wanted to get Julian.

2 A. Julian was supposed to take care of that.

3 Q. But Julian was too busy falling in love
4 with your wife.

5 A. That's how it started, yes.

6 Q. And it didn't happen.

7 A. And it didn't happen.

8 Q. And you ended up having to plead guilty to
9 conspiracy to commit second-degree murder.

10 A. Yes, sir.

11 Q. Now, pretty interesting, in a statement
12 you gave to the FBI on May 8, 2017, you said you'd
13 always gotten the maximum penalty.

14 A. That's correct.

15 Q. But this particular plea agreement that we
16 looked at earlier, this wasn't a second-degree
17 murder. I mean, you guys had planned this out.

18 A. That's correct.

19 Q. So you didn't get a first-degree murder,
20 did you?

21 A. No, we didn't.

22 Q. And somebody talked the district
23 attorney's office into lowering the charge to
24 second-degree murder; correct?

25 A. That's correct.

1 Q. And even then, they suspended all of that
2 time. The only time you got in your original
3 judgment and sentence was the four years for an
4 habitual offender charge.

5 A. I don't believe that's correct. I think I
6 pled guilty to conspiracy to second-degree murder,
7 which carried a certain amount of years, which I
8 got; and the four-year habitual, which I got.

9 Q. Can we pull up --

10 A. I'm not sure exactly how much time I got.
11 But that's what I pled guilty for, and that's the
12 time I got.

13 Q. Can we go to page Bates No. 8874?
14 Government's Exhibit 246.

15 Okay. So this is the judgment and
16 sentence for the Matthew Cavalier homicide?

17 A. Yes, it is.

18 Q. And we can flip over to the next page.
19 We'll blow up the top.

20 So you see on the top paragraph here that
21 says you've agreed, and the Court imposes --
22 Mr. Archuleta is also sentenced to a mandatory four
23 years pursuant to the habitual offender statute, for
24 a total term of imprisonment of 10 years, of which
25 six years of the sentence shall be suspended, for an

1 actual term of imprisonment of four years.

2 A. Okay. You're right.

3 Q. And the judge had his hands tied. You had
4 to get four years for the habitual offender charge.

5 A. That's correct.

6 Q. So all of the other time was waived in
7 your original judgment and sentence.

8 A. Apparently, from that, yes.

9 Q. So you really wouldn't characterize this
10 as a maximum penalty under law, would you?

11 A. According to that, no.

12 Q. So for a first-degree murder charge, you
13 got a four-year sentence.

14 A. Yes. That's correct.

15 Q. Now, at this point you go back in, and
16 this whole situation with Julian Romero is actively
17 in your mind; correct?

18 A. That's correct.

19 Q. And it's at this point where you ordered
20 the green light on Julian while you're in prison.

21 A. That's correct.

22 Q. And we talked about this before -- and I
23 won't rehash it -- but that's when you hired
24 Frederico Munoz to go shoot him.

25 A. I didn't hire him.

1 Q. Ordered him to do it.

2 A. Yes.

3 Q. You didn't have to hire him; he would just
4 do it on your word.

5 A. Yes.

6 Q. And like we talked about earlier,
7 ultimately, you did that four-year stint, you timed
8 that number out pretty quickly, and got out on
9 probation.

10 A. That's correct.

11 Q. That's when you tested dirty?

12 A. That's correct.

13 Q. And had the whole kerfuffle with Baby Zack
14 at the methadone clinic.

15 A. That's correct.

16 Q. So if we look back at just the assaults
17 and the stabbings that you just talked about in your
18 letter, your diary of the SNM, that's 12, I believe
19 12 different assaults, none of which you were
20 prosecuted for.

21 A. That's correct.

22 Q. And despite that lengthy history of
23 violence, the United States is willing to waive all
24 of that and give you a three-year sentence?

25 A. That's correct.

1 Q. And that's a really powerful benefit,
2 wasn't it?

3 A. That's correct.

4 Q. It far exceeds the 2200-some-odd dollars
5 you received from letter-writing and telephone
6 privileges?

7 A. That's correct.

8 Q. Because three years is much better than a
9 lifetime in prison.

10 A. That's correct.

11 Q. In addition to that, you're allowed to see
12 your father, at least one contact visit.

13 A. That's correct.

14 Q. And extended telephone privileges.

15 A. That's correct.

16 Q. More liberty than one would normally have
17 in the Department of Corrections.

18 A. That's correct.

19 Q. And you're scheduled to get out this year.

20 A. Yes.

21 Q. In just a few months.

22 A. Ten months.

23 Q. Now, I wanted to talk to you about a
24 comment that you had made during the direct
25 testimony. And you said something to the effect

1 that you had never seen or heard of anyone bragging
2 about something they didn't do as part of the SNM.

3 A. I didn't recall.

4 Q. You don't recall it? You don't recall
5 that?

6 A. I didn't recall. I recall me saying that
7 I just didn't recall ever seeing anybody brag about
8 something they did and which they didn't do.

9 Q. All right. Or somebody taking credit for
10 something they didn't do.

11 A. That's correct.

12 Q. But do you remember -- I mean, as part of
13 your cooperation with the United States, you agreed
14 to wear a wire; right?

15 A. That's correct.

16 Q. And you were aware -- because you had the
17 tablet; right? You got the discovery in this case
18 and you got to look at all the investigatory
19 techniques used by the FBI?

20 A. I don't believe at that time we had
21 received the tablet yet.

22 Q. But my question is: Ultimately you got a
23 tablet; correct?

24 A. Oh, yes. Yes.

25 Q. And you got to see all the discovery in

1 this case.

2 A. Yes.

3 Q. And you got to learn who was wearing wires
4 and who had wiretapped phones?

5 A. Yes.

6 Q. And before you became a government
7 informant, Tomas Clark had recorded you on a wiretap
8 phone; correct?

9 A. Correct.

10 Q. And do you recall talking to Tomas Clark
11 about a young kid bragging to you that he was
12 brought into the SNM by Gerald Archuleta?

13 A. I don't recall. Every time they called
14 me, I'd been drinking. But if that was on the call,
15 then.

16 MR. LOWRY: May I approach, Your Honor?

17 THE COURT: You may.

18 MR. LOWRY: May I approach, Your Honor?

19 A. Yes, I remember that. I don't remember
20 our phone conversation, but I remember that incident
21 at the methadone clinic.

22 BY MR. LOWRY:

23 Q. Okay. And this incident is what sounds
24 like some younger individual coming up to you.

25 A. He was brought to me by --

1 Q. Boxer?

2 A. Boxer, yes.

3 Q. And who is Boxer?

4 A. Boxer is a brother of the SNM.

5 Q. Do you know his real name?

6 A. His last name is Amador. I don't recall
7 his first name.

8 Q. But this kid -- I say "kid." I don't know
9 how old he is. How old was he?

10 A. I have no idea.

11 Q. But he approaches you and he tells you --
12 introduces himself to you as an SNM member?

13 A. No.

14 Q. Well, he introduced himself and said
15 Gerald Archuleta brought him into the SNM.

16 A. Boxer approached me and he said, "Hey,
17 there is this guy over here. I want you to meet
18 him. He said that Gerald Archuleta brought him in."

19 Q. Right.

20 A. And he wasn't aware that I was Gerald
21 Archuleta.

22 Q. Right. And did you have a conversation
23 with him?

24 A. I had a conversation talking with Boxer,
25 yes.

1 Q. Brief. But you knew that that hadn't
2 happened.

3 A. Yes. I didn't know the individual.

4 Q. At all.

5 A. At all.

6 Q. You didn't recognize him at all.

7 A. No.

8 Q. So that's an example of somebody sort of
9 bragging about bona fides that they didn't really
10 have; isn't that true?

11 A. He was claiming to be S, and apparently he
12 wasn't, yeah.

13 Q. And are you also aware of a
14 circumstance -- I guess this would have been in
15 the -- well, probably, the mid 2000s, when Billy
16 Baca called you up because he'd given a guy named
17 Popeye a hotshot?

18 A. Yes, sir. His name -- it wasn't Billy
19 Baca; it was Billy something. They called him
20 Daffy. But he was a Billy. We just got the last
21 name mixed up.

22 Q. But in your report you wrote Billy Baca.

23 A. Right.

24 Q. But that wasn't correct?

25 A. No. I thought his last name was Baca.

1 But apparently, later on, I find out that his name
2 ain't Baca.

3 Q. But anyway, this is after you put the hit
4 out on Julian Romero; right?

5 A. Yes.

6 Q. And Billy Baca knew, like a lot of people
7 did, that Julian Romero was from the Barelás
8 neighborhood in Albuquerque.

9 A. Yes.

10 Q. And it's fair to say that in the people
11 that followed Gerald Archuleta in the SNM, the
12 Barelás neighborhood became disfavored.

13 A. Yes.

14 Q. And Billy Baca thought he could do you a
15 favor by killing people from the Barelás
16 neighborhood.

17 A. Yes.

18 Q. And in fact, he did that.

19 A. He claimed to have done that.

20 Q. Well, he not only claimed to have done
21 that, but he did kill Popeye with a hotshot.

22 A. I don't believe so.

23 Q. Okay. Well, did Billy Baca call you after
24 he escaped from the trunk of a car --

25 A. Yes.

1 Q. -- and he would have been kidnapped
2 because of the hotshot he had given Popeye?

3 A. Yes.

4 Q. And that's what you wrote to the FBI in
5 your report to them?

6 A. Yes.

7 Q. You weren't lying to the FBI, were you?

8 A. Well, what I believe is that Billy Baca
9 was partying with Popeye. He found him dead, and
10 later claimed that he did it for Gerald Archuleta to
11 gain respect. But there was never a green light on
12 Popeye. And I never ordered a hit on Popeye.
13 Popeye was not -- I do not believe -- given a
14 hotshot. He OD'd on heroin. If you know Popeye,
15 he's known for OD'ing everywhere he goes.

16 Q. But my point is -- we'll just call him
17 Billy Baca, since --

18 A. Yes.

19 Q. Billy Baca was bragging about something
20 that he really didn't do.

21 A. Exactly.

22 Q. So you are aware of people bragging --

23 A. Well, now that you bring it to my
24 attention, yes.

25 Q. Well, you brought it to my attention.

1 A. I didn't recall -- I didn't remember
2 Billy.

3 Q. Are you having trouble recalling?

4 A. I didn't remember Billy bragging about
5 doing this incident.

6 Q. But you wrote about it.

7 A. Yes.

8 Q. You wrote about it in September of 2017.

9 A. Right.

10 Q. Now you testified on direct about --

11 A. When you brought it to my attention, like
12 now, now I remember.

13 Q. Right. So people have to bring things to
14 your attention for you to remember them.

15 A. Sometimes.

16 Q. Now, you were asked on direct examination
17 about the allegation that you wanted to murder
18 Darren White.

19 A. No. I never wanted to murder Darren
20 White.

21 Q. You were asked about it on direct
22 examination.

23 A. If I wanted to kill Darren White? That's
24 not true. I've never said that I wanted to kill
25 Darren White.

1 Q. Right. But you testified on direct: When
2 you were in that lifestyle, you want people to think
3 you can call a hit on a sheriff.

4 A. Yes, that's correct.

5 Q. And that's bragging about something you
6 didn't really do, isn't it?

7 A. Yes, that's correct.

8 MR. LOWRY: Your Honor. May I have a
9 moment?

10 THE COURT: You may.

11 BY MR. LOWRY:

12 Q. A couple quick questions, Mr. Archuleta.
13 In your most recent debrief with the United States,
14 you talked about your drug use.

15 A. Yes.

16 Q. And you would agree with me that you
17 purchased drugs from a number of the other
18 cooperating witnesses in this case, or people that
19 are working with the United States?

20 A. That's correct.

21 Q. And would you agree with me that Benjamin
22 Clark has supplied you with Suboxone?

23 A. That's correct.

24 Q. And that Jerry Montoya has supplied you
25 with Suboxone?

1 A. That's correct.

2 Q. And that Timothy Martinez has supplied you
3 with Suboxone?

4 A. That's correct.

5 Q. And that Roy Martinez has supplied you
6 with Suboxone?

7 A. That's correct.

8 Q. And all of this is during a period of time
9 where you're supposed to be demonstrating to the
10 people at this table that you're an honest,
11 truthful, and law-abiding person.

12 A. That's right.

13 Q. And you also testified that you moved to
14 Tennessee because you wanted to get away from the
15 SNM lifestyle.

16 A. That's correct.

17 Q. But isn't it true that during this time
18 you put a hit order out on Vincent Garduno?

19 A. No.

20 Q. You don't think --

21 A. Well, no, I didn't put a hit on him.

22 Q. You were upset with Mr. Garduno for not
23 supplying you with drugs in Tennessee.

24 A. Yes, for sending me -- yes.

25 Q. And so you couldn't quite give up the

1 lifestyle in total, could you?

2 A. No.

3 Q. And you were dependent on Mr. Garduno to
4 send you drugs.

5 A. Yes.

6 Q. Because the drugs in Tennessee are a lot
7 more expensive compared for New Mexico, which is a
8 border state.

9 A. Yes.

10 Q. And did Mr. Garduno short you?

11 A. He sent me an empty package.

12 Q. And that made you upset?

13 A. Yes.

14 Q. And you wanted to hurt him?

15 A. I sent someone to go talk to him.

16 MR. LOWRY: No further questions, Your
17 Honor.

18 THE COURT: Thank you, Mr. Lowry.

19 Mr. Villa -- oh, Ms. Bhalla, do you want
20 to go?

21 MS. BHALLA: Thank you, Your Honor.

22 THE COURT: Ms. Bhalla.

23 CROSS-EXAMINATION

24 BY MS. BHALLA:

25 Q. Good afternoon, Mr. Archuleta.

1 A. Good afternoon.

2 Q. Mr. Beck asked you some questions on
3 direct examination about what I would refer to as
4 institutional knowledge. Do you know what that
5 means?

6 A. Would you explain?

7 Q. Sure. I think he asked you about it in
8 the context of an assault. Okay? And after an
9 assault in the SNM -- and you can think of any
10 assault that we've discussed today, okay -- is it
11 fair to say that the facts of that assault become
12 known to other members of the SNM?

13 A. Yes.

14 Q. And so who did what to whom and when
15 becomes common knowledge for SNM members; is that
16 fair to say?

17 A. Yes.

18 Q. And that's because people talk about it,
19 don't they?

20 A. Yes, ma'am.

21 Q. And they don't have much else to do
22 besides talking; is that right?

23 A. That's correct.

24 Q. So that's what they're going to talk
25 about; is that fair to say?

1 A. Yes, ma'am.

2 Q. Were you in custody when Javier Molina was
3 murdered?

4 A. I don't believe so. I think I was in
5 Tennessee.

6 Q. Okay. So you weren't there?

7 A. No.

8 Q. So you didn't see anybody do anything in
9 regards to that murder, yourself, did you?

10 A. No, ma'am.

11 Q. And when you got picked up in Tennessee
12 and brought back, and you wanted to cooperate with
13 the Government, they gave you a recording device;
14 right?

15 A. Yes, ma'am.

16 Q. And they put you next to Carlos Herrera;
17 right?

18 A. Yes, ma'am.

19 Q. And that was in, I want to say, 2016?

20 A. Yes, ma'am.

21 Q. Do you remember when in 2016?

22 A. Maybe January.

23 Q. Maybe January. And do you know when
24 Javier Molina was murdered?

25 A. I think 2014, maybe. I'm not exactly

1 sure.

2 Q. So when you were placed next to Carlos,
3 Javier Molina, the homicide happened two years prior
4 to you being placed next to Carlos; right?

5 A. Yes, ma'am.

6 Q. And when you talked to Carlos about the
7 murder of Javier Molina, he told you what he heard
8 about the murder; isn't that true?

9 A. Yes.

10 MS. BHALLA: May I have a moment, Your
11 Honor?

12 THE COURT: You may.

13 BY MS. BHALLA:

14 Q. Just a few more questions. You talked
15 about other stuff with Carlos Herrera; is that fair
16 to say?

17 A. Yes.

18 Q. And I think we saw some of the examples up
19 there on the screen?

20 A. That's correct.

21 Q. And one of those examples was where he
22 drilled a hole in the wall to store his drugs?

23 A. I think he was talking about drilling a
24 hole through the visiting window to get drugs.

25 Q. Okay. To get drugs?

1 A. Yes.

2 Q. And that's not why Javier Molina is dead,
3 is it?

4 A. No.

5 Q. And when you were picked up by the FBI,
6 that was in -- remind me -- 2015?

7 A. December 2, 2015.

8 Q. And you were in Chattanooga, Tennessee?

9 A. I was in --

10 Q. Or close to there?

11 A. Yes, ma'am.

12 Q. Sorry. I'm -- I just -- Chattanooga
13 stands out to me.

14 A. Right. I was taken to the Chattanooga FBI
15 office, where I was processed.

16 Q. Okay. And somebody from Albuquerque came
17 out there to talk to you, didn't they?

18 A. Yes.

19 Q. And so that was a pretty big deal, right,
20 for them to come all the way out there to talk to
21 you?

22 A. Yes.

23 Q. And they talked to you about -- they asked
24 you a bunch of questions. And I think one of the
25 things that you told them was that you didn't speak

1 Spanish. Do you recall telling them that?

2 A. Yes.

3 Q. You do speak Spanish, don't you?

4 A. No, I don't.

5 Q. You don't speak Spanish?

6 A. I know slang words. But to carry on a
7 conversation with you in Spanish, I wouldn't be able
8 to do that.

9 Q. You will agree with me that you
10 interpreted Spanish --

11 A. Right.

12 Q. -- on direct examination today in this
13 courtroom.

14 A. Those were certain slang words that I'm
15 aware of what they mean.

16 Q. Okay.

17 A. But I can't carry on a conversation with
18 you in Spanish.

19 Q. Okay. What's the word for "mess"?

20 A. Well, the lingo that was provided on this
21 screen was a desmadre.

22 Q. And that means messy, right, or mess, in
23 your understanding of the word?

24 A. Yes.

25 Q. Okay.

1 MS. BHALLA: I think I'll pass the
2 witness, Your Honor.

3 THE COURT: Thank you, Ms. Bhalla.
4 Mr. Villa, Ms. Jacks?

5 MR. VILLA: We don't have any questions.

6 THE COURT: Thank you, Mr. Villa.

7 MS. JACKS: Nor do we, Your Honor.

8 THE COURT: Thank you, Ms. Jacks.

9 Mr. Beck, do you have redirect?

10 MR. BECK: Yes, I do.

11 REDIRECT EXAMINATION

12 BY MR. BECK:

13 Q. Mr. Archuleta, a few moments ago Ms.
14 Bhalla was asking you about institutional knowledge
15 and prison talk. Do you recall that?

16 A. Yes.

17 Q. And I think she was asking you whether SNM
18 inmates, after an SNM assault happens -- whether
19 they talk about it on the yard. Do you remember
20 that?

21 A. Yes.

22 Q. And do SNM inmates talk about official SNM
23 hits in the yard after they happen?

24 A. Yes, they do.

25 Q. And is that a method that the SNM uses to

1 learn who is involved in all of the SNM assaults or
2 murders?

3 A. Yes, it is.

4 Q. And then Mr. Lowry was asking you about, I
5 think, a young man at the methadone clinic who said
6 that he had been brought in by Gerald Archuleta?

7 A. Yes.

8 Q. Was that true? Did you bring him in?

9 A. No, I didn't.

10 Q. So was that something that was disproven,
11 a rumor that was proved wrong within the SNM?

12 A. I don't think it was among the S, the SNM.
13 He was never a member. And it was never an issue.
14 We were kind of making light of it that day, because
15 this guy claimed to have known me, and he didn't
16 even know me. And he came up with this wild story,
17 and it wasn't true.

18 Q. So would you say pretty quickly everyone
19 knew that was not true?

20 A. Well, yes.

21 Q. And then I think he asked you about
22 someone claiming a hotshot of Popeye. Do you
23 remember that?

24 A. Yes.

25 Q. And what is a hotshot?

1 A. A hotshot is when you mix a foreign
2 substance with, say, a shot of heroin so that it
3 kills you.

4 Q. And is that a way to intentionally kill
5 someone with drugs?

6 A. Yes.

7 Q. Okay. In the prison talk on the yard, did
8 all the SNM members talk about how this person gave
9 Popeye a hotshot?

10 A. Yes.

11 Q. And did they believe that that was true?

12 A. Some did, some didn't.

13 Q. Were there other members who also were
14 there participating when this Billy Baca gave Popeye
15 a hotshot?

16 A. Not that I'm aware of.

17 Q. And as far as you're aware, did anyone
18 come forward and claim that they ordered the
19 hotshot?

20 A. No.

21 Q. I think you said, when Mr. Lowry asked you
22 about the three different sort of groups that
23 formed -- was one of the groups your group under
24 Angel Munoz?

25 A. Yes.

1 Q. Was the second group, then, Billy Garcia's
2 group?

3 A. Yes.

4 Q. And was that the group under which Julian
5 Romero fell?

6 A. Yes.

7 Q. And was the third group Marty Barros'
8 group?

9 A. Marty, no.

10 Q. Who was the third group?

11 A. It was Julian Romero, Billy Garcia, and I
12 don't believe that there were any other groups that
13 participated in that feud.

14 Q. Where did Marty Barros fit into these
15 groupings?

16 A. I don't think Marty Barros -- I don't even
17 know where Marty Barros was at the time. I've never
18 talked to Marty Barros about the Julian Romero
19 issue.

20 Q. Where did Mr. Baca, Anthony Ray Baca, Pup,
21 fit into these groups?

22 A. He didn't. He was out of state.

23 Q. In 2015, in July 2015, did you order
24 anyone to assault Julian Romero?

25 A. No.

1 Q. And when Chris Garcia -- Chris Garcia --
2 is he an SNM member?

3 A. Yes.

4 Q. Is he the one who told you about it?

5 A. Yes.

6 Q. And when he called you and told you that
7 Julian Romero was assaulted, were you actually
8 surprised by that when he called you?

9 A. Yes.

10 MR. BECK: Nothing further, Your Honor.

11 THE COURT: All right. Thank you, Mr.
12 Beck.

13 All right. Mr. Archuleta, you may step
14 down.

15 Did you have something else, Mr. Lowry?

16 MR. LOWRY: Very briefly, Your Honor.

17 THE COURT: All right. Mr. Lowry.

18 RECROSS-EXAMINATION

19 BY MR. LOWRY:

20 Q. This idea of rumors and dispelling them --
21 again, you wrote your story for the FBI; correct?

22 A. Yes.

23 Q. And you say you don't really know who this
24 gentleman was, but we'll just keep calling him Billy
25 Baca, that claimed to have given Popeye a hotshot in

1 your honor?

2 A. Daffy, yes.

3 Q. And in your statement to the FBI, you
4 said, "From that day on, the story went around that
5 Popeye's death was a result of a green light that
6 was called by Styx of SNM, and was being validated
7 by Billy Baca himself, as he told everyone that
8 would listen that he killed Anthony Popeye Apodaca,
9 and that he did it for Styx."

10 That doesn't sound like a rumor that was
11 dispelled. That sounds like an ongoing claim that
12 was out there.

13 A. Yes.

14 Q. And that concerned you.

15 A. Yes.

16 Q. Now, your moniker is Styx; correct?

17 A. Yes.

18 Q. And people call you Styx because you are
19 thin.

20 A. Yes.

21 Q. And another word for Styx is, I think --
22 the Spanish term is palitos?

23 A. People called me Palitos.

24 Q. And again, you put the original call out
25 on Julian Romero?

1 A. The original hit.

2 Q. The original hit?

3 A. Yes, I did.

4 Q. And despite Billy Garcia asking you to
5 call it off, despite his nephew trying to kill you
6 over it, you never called it off, did you?

7 A. I never called it off.

8 MR. LOWRY: No questions, Your Honor.

9 THE COURT: Thank you, Mr. Lowry.

10 Mr. Beck, do you have redirect?

11 MR. BECK: Briefly, Your Honor.

12 THE COURT: Mr. Beck.

13 REDIRECT EXAMINATION

14 BY MR. BECK:

15 Q. When you pled guilty in this case, did you
16 plead guilty to the charge for conspiring to assault
17 Julian Romero?

18 A. Yes, I did.

19 Q. But in 2015, did you order anyone to
20 assault Julian Romero?

21 A. In 200- -- no.

22 MR. BECK: Nothing further, Your Honor.

23 THE COURT: Thank you, Mr. Beck.

24 All right. Mr. Archuleta, you may step
25 down.

1 Is there any reason Mr. Archuleta cannot
2 be excused from the proceedings, Mr. Beck?

3 MR. BECK: Not from the Government.

4 THE COURT: How about from the Defendants?
5 Can he be excused?

6 MR. LOWRY: He may be excused.

7 MR. VILLA: Yes, Your Honor.

8 THE COURT: All right. You are excused.
9 Thank you for your testimony.

10 All right. Ms. Armijo, does the
11 Government have its next witness or evidence?

12 MS. ARMIJO: Yes. Frederico Munoz.

13 THE COURT: Mr. Munoz, before you're
14 seated, raise your right hand to the best of your
15 ability there, and Ms. Standridge, my courtroom
16 deputy, will swear you in.

17 FREDERICO MUNOZ,
18 after having been first duly sworn under oath,
19 was questioned, and testified as follows:

20 THE CLERK: Please be seated. State and
21 spell your name for the record.

22 THE WITNESS: My name is Frederico Munoz,
23 F-R-E-D-E-R-I-C-O, M-U-N-O-Z.

24 THE COURT: Mr. Munoz, Ms. Armijo.

25 MS. ARMIJO: Thank you, Your Honor.

1 DIRECT EXAMINATION

2 BY MS. ARMIJO:

3 Q. Mr. Munoz, are you now or have you ever
4 been a member of the Sindicato de Nuevo Mexico?

5 A. Yes.

6 Q. What is the Sindicato de Nuevo Mexico?

7 A. It was and is the largest gang in the
8 state of New Mexico.

9 Q. And what sort of things do they do?

10 A. Everything from theft to murder.

11 Q. Does it operate inside the prisons or
12 outside?

13 A. Predominantly in the prison system, and
14 outside, yes.

15 Q. And when -- how old were you when you
16 became a member?

17 A. I was 16.

18 Q. Now, you talked a little bit how you
19 became a member. Did you run into some problems as
20 a teenager, with the law, I should say?

21 A. Yes, ma'am. In the juvenile system I was
22 stealing cars a lot. I was given chances. I never
23 learned. So the juvenile court judge sentenced me
24 as a juvenile to the adult prison system.

25 Q. And at what age did you go into the adult

1 prison system?

2 A. I arrived at RDC for a diagnostics and
3 evaluation when I was 15. So right before I turned
4 16, I arrived.

5 Q. Now, did you already have a way in to the
6 SNM, so to speak, at that age?

7 A. Yes, I did.

8 Q. Okay. Tell us about that.

9 A. I was dating my sister's friend, who was
10 the niece of a very senior and prominent member of
11 the gang at that time.

12 Q. And who was her uncle?

13 A. Joe Marty Barros.

14 Q. And did you eventually meet Marty Barros?

15 A. Oh, yes.

16 Q. And what was your understanding of his
17 position in the SNM?

18 A. He was one of the main members. He had
19 decision-making authority, right below the main guy,
20 Angel Munoz.

21 Q. So when you went into the prison system as
22 a juvenile, did you actually have people waiting for
23 you, so to speak?

24 A. Yes, I did.

25 Q. Did anybody speak up for you and did you

1 officially become a member at that age, or was it
2 later?

3 A. Even before my very first day in the state
4 prison system, my girlfriend, the niece of Marty,
5 had already communicated my arrival in the state
6 system, so he knew that I was going to be showing up
7 and he communicated through her to me that they
8 would be looking out for me when I got there.

9 Q. And is that what you found when you went
10 into the prison system?

11 A. Yes, ma'am.

12 Q. And did anybody actually officially raise
13 their hand up for you and support you in, or was it
14 just automatic?

15 A. There was no -- the way you describe it,
16 it wasn't like that. It was more of like an ongoing
17 thing where the very, like, very first prominent guy
18 spoke up for me, who was Billy Garcia, and he
19 indicated to me, when I first met him in the RDC
20 facility in Grants, that if I'm going to be in the
21 system and I'm going to be around these guys, then I
22 have to be a brother, and that's how it happened.

23 Q. And what was Billy Garcia's position, if
24 any, at that time?

25 A. He was one of the main members of the

1 brotherhood at that time.

2 Q. What year are we talking about?

3 A. We're talking about 1996.

4 Q. And did you spend very long initially in
5 the prison, or did you get out while you were still
6 a juvenile?

7 A. After my diagnostics, I was returned back
8 to the juvenile district court. And my evaluation
9 didn't go the way it would if somebody wanted to get
10 out. I was reckless and careless, so I was sent
11 back immediately to the state prison system for four
12 and a half years, I believe, and for the auto
13 thefts. So I was officially committed to the state
14 prison system at that time.

15 Q. And how old were you then?

16 A. I was 16. So I served about a year,
17 maybe, and I was released in the summer of 1996.

18 Q. Okay. And is that before or after the
19 four-and-a-half-year commitment?

20 A. That was -- if that sentence -- some of it
21 was suspended.

22 Q. Okay. So you got a four-year -- you know
23 what? I'm not really sure that the jury has ever
24 understood this. Can you tell the jury what your
25 understanding is of receiving -- I'm just going to

1 use some numbers -- 10 years, but some of it is
2 suspended. What does that mean?

3 A. In my particular case, I was sentenced to
4 four and a half years and I believe the judge
5 suspended all but 18 months of that, meaning a
6 portion of that sentence would be served on
7 probation upon my release.

8 MS. ARMIJO: I'm going to move for the
9 admission of Exhibit Number 737 without objection.

10 THE COURT: Any objection? Not hearing
11 any, Government's Exhibit 737 will be admitted into
12 evidence.

13 (Government Exhibit 737 admitted.)

14 MS. ARMIJO: And may we please display
15 Government's Exhibit 737?

16 THE COURT: You may.

17 BY MS. ARMIJO:

18 Q. All right. Mr. Munoz, do you see the
19 screen in front of you?

20 A. Yes, ma'am.

21 Q. And what is it that we're looking at, if
22 you're familiar with the item?

23 A. It's a document from Special Agent Bryan
24 Acee requesting from the state prison system my
25 status information, my judgment and sentence, my

1 identification, and fingerprint cards.

2 Q. And does this actually appear to be from
3 the Corrections Department to him regarding your
4 convictions?

5 A. Yes, ma'am.

6 Q. And I'm going to go to the fourth page of
7 that, which is Bates stamped 8565. Are you familiar
8 with this item?

9 A. Yes.

10 Q. All right. Does this appear to be the
11 first page of, in this case, January 16 of 1996 for
12 trafficking -- I'm sorry, receiving or transferring
13 a stolen vehicle?

14 A. Yes, ma'am.

15 Q. Is that the case that you were just
16 talking to us -- or one of the cases you were
17 talking to us about?

18 A. Yes, it is.

19 Q. All right. And if we could go to the next
20 page.

21 All right. Is this what you were talking
22 about earlier, which is, some of it was suspended
23 and you were sent to serve one year in the
24 Corrections Department?

25 A. Yes, ma'am.

1 Q. And is that when you went officially into
2 the Corrections Department?

3 A. Yes, it is.

4 Q. Now, do you recall which facility you
5 first went into?

6 A. I was sent to the minimum restrict unit in
7 Los Lunas, New Mexico.

8 Q. And did you come into contact with SNM
9 members while there?

10 A. Yes, I did.

11 Q. Who did you come into contact with?

12 A. George Borrego and Adrian Silva, who were
13 two members at that time.

14 Q. Were you sent anywhere else, or did you
15 spend your time there?

16 A. I was transferred from the facility in Los
17 Lunas, New Mexico, to Torrance County Detention
18 Facility, which was primarily housing state
19 prisoners at that time.

20 Q. And again, were you housed with SNM
21 members there?

22 A. Yes, but he was not living in the same
23 unit as was I.

24 Q. All right. Who was it that was living
25 there at the time?

1 A. Samuel Silva.

2 Q. And does he have a nickname?

3 A. Rabbit.

4 Q. So where did you go after spending time
5 there? Were you then released again?

6 A. I was paroled, and I returned to
7 Albuquerque, where I was born and raised. And I
8 moved in with Marty Barros' niece, Mona, and I spent
9 the time that I was out with her. And I cut off my
10 ankle bracelet and I went on the run. And I was
11 arrested at the State Fair, and immediately sent
12 back to the state prison system.

13 Q. All right. How long were you out that
14 time, if you can recall, approximately?

15 A. About six months.

16 Q. So you cut off the ankle bracelet. So did
17 you know that they were looking for you, so to
18 speak?

19 A. Yes, I did.

20 Q. Okay. So you get sent back. And how old
21 are you when you're sent back?

22 A. I'm 16.

23 Q. And was that for a parole violation?

24 A. Yes, ma'am.

25 Q. And when you get sent back, where do you

1 go?

2 A. I go back to the Western New Mexico
3 Correctional Facility, which is where you're
4 returned when you violate your probation. And from
5 there, I was sent to the Southern New Mexico
6 Correctional Facility.

7 Q. Is that here in Las Cruces?

8 A. Yes, ma'am.

9 Q. And were you housed with any SNM members
10 there?

11 A. Yes, I was.

12 Q. Who were you housed with?

13 A. A lot of them.

14 Q. Any leaders in particular?

15 A. Yes. Enrique Clark; we called him Baby
16 Henry. He had command of the facility.

17 Q. And how long did you stay at Southern?

18 A. About 33 days. And I was placed into Seg
19 for assault and transferred to the Main unit.

20 Q. Okay.

21 A. In Santa Fe.

22 Q. And the assault that you committed -- what
23 was that over?

24 A. It was really a personal matter. A young
25 guy and I, we had a conflict with an older big --

1 pretty big white guy, and we decided to jump him.

2 And we failed in our attempt. But for that I was

3 placed into Seg.

4 Q. And how old were you at the time?

5 A. I was 16 still.

6 Q. Now, had anybody explained to you -- you
7 talked about what SNM was. Did you know, did you
8 consider yourself -- or were you considered a member
9 at that time?

10 A. Yes, I was.

11 Q. And did you know the rules of the SNM?

12 A. Yes, I did.

13 Q. What were the rules, as you understood it?

14 A. To obey without question any of the
15 commands I was given by the boss of the facility,
16 and to conduct myself in certain manners that were
17 in line with the rules of the family.

18 Q. Okay. When you say "the family," who are
19 you referring to?

20 A. Talking about the SNM.

21 Q. Do they have any rivals?

22 A. Inferior ones, but yes, we did.

23 Q. Did you say inferior ones?

24 A. Yes.

25 Q. Meaning SNM was the dominant prison gang?

1 A. There is no question about that.

2 Q. Who are some of the rivals?

3 A. The Los Carnales. That was probably our
4 main recurring enemy for a long time, but they never
5 really could do anything to us.

6 Q. Now, you talked about what SNM was in
7 general. What about -- what did it mean to you as a
8 16-year-old being a member?

9 A. It was the most amazing thing ever for me
10 at the time. It was like a celebrity thing for me.
11 It was my life. I defined my identity around it.

12 Q. Did you eventually get moved to a
13 different facility?

14 A. Yes. I stayed in segregation for about a
15 month, serving disciplinary time for the assault.
16 And then, when I completed my disciplinary time, the
17 administration transferred me to the state pen in
18 Santa Fe, Old Main unit.

19 Q. All right. And when you were there, did
20 you have an opportunity to meet -- to be with SNM
21 members?

22 A. Yes, I did.

23 Q. And did you meet any of the leaders there?

24 A. Yes, I did.

25 Q. Who did you meet?

1 A. Anthony Ray Baca, Pup.

2 Q. Pup?

3 A. Anthony Ray Baca, yes, ma'am.

4 Q. Is Pup his nickname?

5 A. Yes, ma'am.

6 Q. Do you know where he gets the nickname
7 from?

8 A. I do not.

9 Q. Had he already had that nickname when you
10 met him?

11 A. Yes.

12 Q. And how did you know -- where in the
13 scheme of things was he? You said he was a leader?

14 A. Yes, he was the boss.

15 Q. Was there anybody above him?

16 A. Just one guy, but he was not at the
17 facility.

18 Q. Who was above him?

19 A. Angel Munoz.

20 Q. And so did you have an opportunity to talk
21 to Pup?

22 A. Just briefly one time in the visiting
23 room, and that was it.

24 Q. Were you given any -- what was your
25 position then at the Main?

1 A. I was a soldier.

2 Q. Okay. Explain what a soldier is.

3 A. A soldier is the guy who is the combat arm
4 of the leadership. I do the bidding of the boss.

5 Q. And who gave you that role?

6 A. That is the role of every member who joins
7 the gang.

8 Q. At some point did you -- you said you were
9 a soldier. Have you ever heard the term "violation
10 crew"?

11 A. Yes, ma'am.

12 Q. What is that?

13 A. It was a squad that was assigned to
14 inflict floggings and beatings on members of the
15 group who violated the rules of the leadership.

16 Q. And who came up with that?

17 A. That came up -- that was designed by Pup
18 and his lieutenants.

19 Q. Okay. And were you assigned to that?

20 A. Yes, ma'am, I was.

21 Q. By whom?

22 A. By Pup and his three subordinates.

23 Q. Who were his three subordinates at the
24 time?

25 A. They were Baby Rob and Robert Martinez,

1 Shaun Ural, and Freddie Sanchez, Fred Dog.

2 Q. Now, do you see Anthony Baca in the
3 courtroom today?

4 A. Yes, ma'am.

5 Q. And where is he?

6 A. He is the gentleman in the suit with the
7 bald head, who is looking at me right now.

8 Q. What color is his suit?

9 A. His suit looks to me like it's navy blue,
10 gray.

11 MS. ARMIJO: May the record reflect the
12 identification of the defendant?

13 THE COURT: The record will so reflect.

14 BY MS. ARMIJO:

15 Q. Now, did you actually do work for the
16 violation crew?

17 A. Yes, I did on two occasions.

18 Q. Now, what year are we talking about now?

19 A. This was in 1997. So shortly -- I would
20 say February or March.

21 Q. While you were still there at the Main?

22 A. Yes, ma'am.

23 Q. And what sort of things did you do?

24 A. For the violation crew, or just --

25 Q. The violation crew.

1 A. Well, on the two occasions that I
2 mentioned, I was taken to the education building for
3 one event, and outside in a blind spot, so to speak,
4 from the towers, the other one, and for exactly one
5 minute myself and another member assaulted the two
6 guys who had violated the rules.

7 Q. Now, you said two people that had violated
8 the rules. What rules are we talking about?

9 A. Just the general rules or any specific
10 rule that the leadership had set. In this
11 particular case, they were supposed to attend a
12 meeting at the yard and they didn't do so, so they
13 were penalized for that.

14 Q. All right. Now -- and so the penalty for
15 not attending a meeting was a beating?

16 A. Yes, ma'am. There were occasions where
17 somebody, a brother, committed an infraction that
18 didn't require his death or it wasn't severe enough
19 that he was to be killed, so Pup and the leadership
20 designed a system where minor violations would
21 result in a beating, so to speak, at the end of
22 which the brother was forgiven, or counseled not to
23 do that again.

24 MS. DUNCAN: Your Honor, I'd like to
25 object. May we approach for a moment?

1 THE COURT: You may.

2 (The following proceedings were held at
3 the bench.)

4 MS. DUNCAN: Your Honor, this witness has
5 testified that he met Pup only once briefly in a
6 visitation room. And he keeps -- when Ms. Armijo is
7 asking him questions, he keeps saying "Pup and his
8 lieutenants." We've been given no notice of any
9 James statements, so these statements by his
10 lieutenants are hearsay. So we'd ask that the Court
11 exclude any hearsay statements related to Mr. Baca.

12 THE COURT: Well, you probably need to lay
13 some foundation. These don't seem to come under any
14 exception. So he's going to probably have to
15 testify from personal knowledge. So you'll have to
16 lay a foundation. Then you'll have to make a
17 judgment as to whether you think it's enough or not.
18 Individually, we'll probably have to take them one
19 at a time.

20 MS. DUNCAN: Okay. Thank you.

21 (The following proceedings were held in
22 open court.)

23 THE COURT: All right. Ms. Armijo.

24 BY MS. ARMIJO:

25 Q. Mr. Munoz, you indicated that -- let me go

1 back just a little bit -- that you had been placed
2 on the violation crew by Anthony Baca?

3 A. Yes, ma'am.

4 Q. How is it that you know he placed you on
5 the violation crew?

6 A. I was given the assignment explicitly by
7 Baby Rob, who was one of the members of his --
8 Anthony Ray Baca's tabla. And I was told by Robert
9 Martinez --

10 MS. DUNCAN: Your Honor, I object. He's
11 about to elicit hearsay.

12 THE COURT: Are you trying to elicit this
13 out-of-court statement?

14 MS. ARMIJO: Let me ask a couple more
15 questions, Your Honor.

16 THE COURT: Okay.

17 BY MS. ARMIJO:

18 Q. Did what Robert Martinez told you have an
19 impact on you as far as what you were doing for the
20 gang?

21 A. They spoke on behalf of the boss.

22 Q. Well, what I'm saying is, you were -- and
23 I don't want to get into what you were told by
24 Robert Martinez yet. But did whatever he told
25 you -- did that cause you to do something on behalf

1 of the gang?

2 A. Yes, ma'am.

3 MS. ARMIJO: So your Honor, at this time I
4 would seek the statements for the impact it had on
5 this witness.

6 THE COURT: All right. I'll give a
7 limiting instruction on this.

8 MS. DUNCAN: Thank you, Your Honor.

9 THE COURT: I'm not exactly sure what the
10 statement is going to be, but whatever it is, you
11 can't consider it for the truth of the matter. You
12 can only consider it for the impact that it had on
13 Mr. Munoz, and maybe explain why he did what he did.
14 But you can't consider these statements that you're
15 about to hear for the truth of the matter.

16 All right. Ms. Armijo.

17 BY MS. ARMIJO:

18 Q. And what was it that Robert Martinez told
19 you?

20 A. He told me that myself and another guy who
21 I knew were going to be violating some brothers for
22 breaking rules.

23 Q. And is that what you referred to as the
24 violation crew?

25 A. Yes.

1 Q. And what was your understanding as to
2 where this order came from?

3 MS. DUNCAN: Your Honor, I'm going to
4 object. This is based on hearsay.

5 THE COURT: Well, I think it's the same
6 understanding. Why don't we do this? Why don't we
7 take this up in the morning. We're at closing time.

8 I'm going to take my Valentine out to the
9 Double Eagle. I've been out there once or twice, so
10 that's where I'm going to take her. We knew each
11 other in first grade. So she wasn't the girl next
12 door, but she was the girl around the block. So we
13 are celebrating 40 years. So I'm going to spend
14 some time with her. I bet she's not going to kiss
15 me sounding like this. I bet she'll stay away.

16 Y'all have a good evening. I hope y'all
17 have a good Valentine's Day. All rise.

18 (The jury left the courtroom.)

19 THE COURT: Mr. Munoz, you're in the
20 middle of your testimony, so don't talk to anybody
21 about your testimony or what's occurring in this
22 trial or anything like that. Okay?

23 THE WITNESS: Yes, sir.

24 THE COURT: All right. You have a good
25 evening.

1 THE WITNESS: You, too.

2 THE COURT: All right. Y'all have a good
3 evening. See y'all tomorrow. Thanks for your hard
4 work.

5 (The Court stood in recess.)
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
1 UNITED STATES OF AMERICA

2 STATE OF NEW MEXICO

3
4 C-E-R-T-I-F-I-C-A-T-E

5 I, Jennifer Bean, FAPR, RDR, CRR, RMR, CCR,
6 Official Court Reporter for the State of New Mexico,
7 do hereby certify that the foregoing pages
8 constitute a true transcript of proceedings had
9 before the said Court, held in the District of New
10 Mexico, in the matter therein stated.

11 In testimony whereof, I have hereunto set my
12 hand on this 4th day of February, 2019.

13
14 
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